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SENATE BILL NO. 995

Offered January 12, 2005

Prefiled January 11, 2005

A BILL to amend and reenact § 26-17.9 of the Code of Virginia, relating to checks as vouchers.

Patron—Devolites Davis

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 26-17.9 of the Code of Virginia is amended and reenacted as follows:**

§ 26-17.9. Vouchers and statement of assets on hand; direct payments to account; vouchers for IRS payments.

A. Vouchers for disbursements and a statement of cash on hand or in a bank and all investments held at the terminal date of the account shall also be exhibited with each account. A voucher shall not be required when a disbursement, not exceeding the value of \$25, is made to a legatee under the authority of a will and such legatee refuses to take the possession or fails to present the disbursement check to a bank for payment. In such case the fiduciary shall file an affidavit stating that he has made a good faith effort to comply with the terms of the will and the provisions of this section.

B. A fiduciary may make payment to a beneficiary by transfer to the beneficiary's bank account with the fiduciary or by payment to an account with another bank through an automated clearinghouse, wire transfer or similar mechanism, if the beneficiary has consented in writing to such method of payment. In either case, a record or statement of the bank making such payment shall be a sufficient voucher.

C. In the case of payments to the Internal Revenue Service for income tax estimates or any other payments required or permitted to be made by wire transfer or similar mechanism, the fiduciary shall not be required to exhibit a receipt for such payment. A record or statement of the bank making such payment shall be a sufficient voucher.

D. In the case of payments of debts, taxes and expenses, a corporate fiduciary's affidavit signed by an officer familiar with the facts that describes each payment by date, payee, purpose and amount shall be a sufficient voucher for the purpose of subsection A. However, the commissioner of accounts may require that the corporate fiduciary exhibit a voucher for a specific payment.

E. In the event a fiduciary seeks to use a check as a voucher or receipt hereunder, (i) a copy of both sides of the check shall be sufficient or (ii) a copy of the front side of the check, and the periodic statement, from the financial institution showing the check number and amount that coincides with the copy shall be sufficient, provided such copy was made in the regular course of business in accordance with the admissibility requirements of § 8.01-391, and, provided further, that the commissioner of accounts may require a fiduciary to exhibit ~~the original check or~~ a proper voucher for a specific payment or for distributions to beneficiaries or distributees. *However, the commissioner of accounts shall not require a fiduciary to exhibit an original check as a voucher hereunder.*

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