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HOUSE BILL NO. 2659

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact § 8.01-470 of the Code of Virginia, relating to the posting of a writ to recover property.

Patron—Marsden

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-470 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-470. Writs on judgments for specific property.

On a judgment for the recovery of specific property, real or personal, a writ of possession may issue for the specific property, which shall conform to the judgment as to the description of the property and the estate, title and interest recovered, and there may also be issued a writ of fieri facias for the damages or profits and costs. In cases of unlawful entry and detainer and of ejectment, the officer to whom a writ of possession has been delivered to be executed shall, at least 72 hours before execution, serve notice of intent to execute, including the date and time of execution, as well as the rights afforded to tenants in §§ 55-237.1 and 55-248.38:2, *together with a copy of the writ attached*, on the defendant in accordance with ~~§ 8.01-296~~, ~~with a copy of the writ attached~~ *person or, if the party to be served is not found at the specific property for which a writ of possession has been issued, then service shall be effected by posting a copy of such process at the front door or at such other door as appears to be the main entrance of such property.* The execution of the writ of possession by the sheriff should occur within 15 calendar days from the date the writ of possession is received by the sheriff, or as soon as practicable thereafter, but in no event later than 30 days from the date the writ of possession is issued. In cases of unlawful entry and detainer and of ejectment, whenever the officer to whom a writ of possession has been delivered to be executed finds the premises locked, he may, after declaring at the door the cause of his coming and demanding to have the door opened, employ reasonable and necessary force to break and enter the door and put the plaintiff in possession. The execution of the writ of possession shall be effective against the tenants named in the writ of possession and their authorized occupants, guests or invitees, and any trespassers in the premises. And an officer having a writ of possession for specific personal property, if he finds locked or fastened the building or place wherein he has reasonable cause to believe the property specified in the writ is located, may in the daytime, after notice to the defendant, his agent or bailee, break and enter such building or place for the purpose of executing such writ.

INTRODUCED

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