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HOUSE BILL NO. 2846

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact § 26-30 of the Code of Virginia, relating to fiduciary commissions allowed; review by commissioners.

Patron—Carrico

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 26-30 of the Code of Virginia is amended and reenacted as follows:

§ 26-30. Expenses and commissions allowed fiduciaries.

The commissioner, in stating and settling the account, shall allow the fiduciary any reasonable expenses incurred by him as such; and also, except in cases in which it is otherwise provided, a reasonable compensation, in the form of a commission on receipts, or otherwise. Unless otherwise provided by the court, any guardian appointed pursuant to Chapter 10 (§ 37.2-1000 et seq.) of Title 37.2 shall also be allowed reasonable compensation for his services. If a committee or other fiduciary renders services with regard to real estate owned by the ward or beneficiary, compensation may also be allowed for the services rendered with regard to the real estate and the income therefrom or the value thereof. Notwithstanding the foregoing provisions or any provision under Chapter 31 (§ 55-541.01 et seq.) of Title 55, where the compensation of an institutional fiduciary is specified under the terms of the trust or will by reference to a standard published fee schedule, the commissioner shall not reduce the compensation below the amount specified, unless there is sufficient proof that i) the settler or testator was not competent when the trust instrument or will was executed or ii) such compensation is excessive in light of the compensation institutional fiduciaries generally receive in similar situationsa will or trust specifies the compensation of a fiduciary, whether (i) a fixed amount or percentage, (ii) by reference to a fee schedule, or (iii) in any other manner, the compensation so determined shall be presumed to be reasonable and it shall not be altered by the commissioner unless a fiduciary or person interested in the estate or trust produces evidence that it is unreasonable.

INTRODUCED

HB2846