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**HOUSE BILL NO. 949**

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee on March 8, 2008)

(Patron Prior to Substitute—Delegate Iaquinto)

*A BILL to amend and reenact §§ 55-401 through 55-406, 55-411, and 55-414 of the Code of Virginia, relating to the slayer statute.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 55-401 through 55-406, 55-411, and 55-414 of the Code of Virginia are amended and reenacted as follows:**

§ 55-401. Definitions.

As used in this chapter:

1. "Slayer" shall mean any person (i) who is convicted of the murder *or voluntary manslaughter* of the decedent or, (ii) in the absence of such conviction ~~and where such person has not been acquitted and is not available for prosecution by reason of his death by suicide or otherwise~~, who is determined, *whether before or after his death,* by a court of appropriate jurisdiction by a preponderance of the evidence to have ~~murdered~~ *committed one of the offenses listed in subdivision (i) resulting in the death of* the decedent. For the purposes of subdivision (ii), the party seeking to establish that a decedent was ~~murdered~~ *slain* by such person shall have the burden of proof.

2. "Decedent" shall mean any person whose life is so taken.

3. "Property" shall include any real and personal property and any right or interest therein.

§ 55-402. Slayers not to acquire property as result of slaying.

Neither the slayer nor any *transferee, assignees, or other* person claiming through him shall in any way acquire any property or receive any benefits as the result of the death of the decedent, but such property shall pass as provided in the sections following.

§ 55-403. Descent, distribution and statutory rights as survivor.

The slayer shall be deemed to have predeceased the decedent as to property which would have passed from the estate of the decedent to the slayer under the statutes of descent and distribution or which would have been acquired by statutory right as surviving spouse. *An heir or distributee who establishes his kinship to the decedent by way of his kinship to a slayer shall be deemed to be claiming from the decedent and not through the slayer.*

§ 55-404. Devise or legacy.

The slayer shall be deemed to have predeceased the decedent as to property which would have passed to the slayer by devise or legacy from the decedent, ~~except that~~ *but* § 64.1-64.1, preventing lapse of devises or legacies when the person named in the will dies before the testator, ~~shall not apply~~ *is applicable to such devise or legacy*.

§ 55-405. Concurrent ownership with survivorship.

As to property held by the slayer and the decedent as tenants by the entirety or any other form of ownership with right of survivorship, the resulting death of the decedent caused by the slayer thereby effects a vesting of the interest of the slayer ~~to~~ *in* the estate of the decedent as though the slayer had predeceased the decedent.

§ 55-406. Concurrent ownership without survivorship.

As to property held by the slayer and the decedent as joint tenants, joint owners, or joint obligees, without right of survivorship, the resulting death of the decedent caused by the slayer thereby effects a severance of the interest of the decedent, ~~so that~~ *and* the share of the decedent passes as ~~his property and the slayer has no rights of survivorship~~ *a part of his estate*.

§ 55-411. Proceeds of insurance and bona fide payment by insurance company or obligor.

A. Insurance proceeds payable to the slayer as the beneficiary or assignee of any policy or certificate of insurance or bond or other contractual agreement on the life of the decedent or as the survivor of a joint life policy shall be paid to the estate of the decedent, unless the policy or certificate designates some person ~~not claiming through the slayer~~ as alternative beneficiary to him.

B. If the decedent is beneficiary or assignee of any policy or certificate of insurance on the life of the slayer, the proceeds shall be paid to the estate of the decedent upon the death of the slayer, unless the policy names some person other than the slayer or his estate as alternative beneficiary, or unless the slayer, by naming a new beneficiary or by assigning the policy, performs an act which would have deprived the decedent of his interest in the policy if he had been living.

C. No insurance company shall be subject to liability on ~~any~~ *a* policy ~~on~~ *insuring* the life of the decedent *if (i) as a part of the slayer's plan to murder the decedent, such policy was* procured and maintained by the slayer or ~~on which all the premiums were paid by him~~ *as a result of actions taken or*

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*participated in by the slayer whether directly or indirectly, and (ii) the decedent's death resulted from the slayer's act committed within two years from the date such policy was issued by the insurance company*.

D. Any insurer making payment according to the terms of its policy or contract or any bank or other person performing an obligation for the slayer as one of several joint obligees shall not be subjected to additional liability by the terms of this section if such payment or performance is made without notice of circumstances bringing it within the provisions of this section.

§ 55-414. Construction.

A. This chapter shall not be considered penal in nature, but shall be construed broadly in order to effect the policy of this Commonwealth that no person shall be allowed to profit by his own wrong, wherever committed. *In furtherance of this policy, the provisions of this chapter are not intended to be exclusive and all common law rights and remedies that prevent one who has participated in the willful and unlawful killing of another from profiting by his wrong shall continue to exist in the Commonwealth.*

B. If this chapter or any part thereof is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this chapter, any person who, not for value, receives a payment, an item of property, or any other benefit to which he is not entitled under this chapter, shall return that payment, item of property, or other benefit or be liable for the amount of the payment or the value of the property or benefit to the person who would have been entitled to it were this chapter or part thereof not preempted.