VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 287

An Act to amend and reenact § 54.1-3935 of the Code of Virginia, relating to revocation or suspension of license to practice law; professional malpractice insurance.

[S 1379]

Approved March 27, 2009

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3935 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3935. Procedure for revocation of license.

A. If the Supreme Court, the Court of Appeals, or any circuit court of this Commonwealth observes, or if a complaint, verified by affidavit is made by any person to such court, that any attorney has been convicted of a misdemeanor involving moral turpitude or a felony or has violated the Virginia Code of Professional Responsibility, the court may assign the matter to the Virginia State Bar for investigation. Upon receipt of the report of the Virginia State Bar, the court may issue a rule against such attorney to show cause why his license to practice law shall not be revoked. If the complaint, verified by affidavit, is made by a district committee of the Virginia State Bar, the court shall issue a rule against the attorney to show cause why his license to practice law shall not be revoked.

B. If the rule is issued by the Supreme Court or the Court of Appeals, the rule shall be returnable to the Circuit Court of the City of Richmond. At the time the rule is issued by the Supreme Court, the Chief Justice shall designate three circuit court judges to hear and decide the case. If the rule is issued by the Court of Appeals or a circuit court, the issuing court shall certify the fact of such issuance and the time and place of the hearing thereon, to the Chief Justice of the Supreme Court, who shall designate three circuit court judges of circuits other than the circuit in which the case is pending to hear and decide the case. In proceedings under this section, the court shall adopt the Rules and Procedures described in Part Six, Section IV, Paragraph 13 of the Rules of Court.

C. Bar Counsel of the Virginia State Bar shall prosecute the case. Special counsel may be appointed to prosecute the case pursuant to § 2.2-510.

D. Upon the hearing, if the attorney is found guilty by the court, his license to practice law in this Commonwealth shall be revoked or suspended for such time as the court may prescribe. In lieu of revocation or suspension, the court may impose any other sanction authorized by Part Six, Section IV, Paragraph 13 of the Rules of Court. *In any case in which the attorney is found guilty of engaging in any criminal activity that violates the Virginia Rules of Professional Conduct and results in the loss of property of one or more of the attorney's clients, the court shall also require, in instances where the attorney is allowed to retain his license, or is permitted to have his license reinstated or restored, that such attorney maintain professional malpractice insurance during the time for which he is licensed to practice law in the Commonwealth. The Virginia State Bar shall establish standards setting forth the minimum amount of coverage that the attorney shall maintain in order to meet the requirements of this subsection. The attorney shall certify to the Virginia State Bar that he has the required insurance and shall provide the name of the insurance carrier and the policy number.*

E. The attorney, may, as of right, appeal from the judgment of the court to the Supreme Court pursuant to the procedure for filing an appeal from a trial court, as set forth in Part 5 of the Rules of Court. In any such appeal, the Supreme Court may, upon petition of the attorney, stay the effect of an order of suspension during the pendency of the appeal. Any order of reprimand shall be automatically stayed prior to or during the pendency of an appeal therefrom. No stay shall be granted in cases where the attorney's license to practice law has been revoked.

F. In any proceeding to revoke the license of an attorney, the attorney shall be entitled to representation by counsel.

G. Nothing in this section shall affect the right of a court to require from an attorney security for his good behavior, or to fine him for contempt of court.