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## SENATE BILL NO. 1262

Senate Amendments in [ ] — February 10, 2009

A BILL to amend and reenact § 8.01-506 of the Code of Virginia, relating to interrogatories.

Patron Prior to Engrossment—Senator Vogel

Referred to Committee for Courts of Justice

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

## 1. That § 8.01-506 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-506. Proceedings by interrogatories to ascertain estate of debtor; summons; proviso; objections by judgment debtor.

A. To ascertain the personal estate of a judgment debtor, and to ascertain any real estate, in or out of this Commonwealth, to which the debtor named in a judgment and fieri facias is entitled, upon the application of the execution creditor, the clerk of the court from which such fieri facias issued shall issue a summons against (i) the execution debtor, (ii) any officer of the corporation if such execution debtor is a corporation having an office in this Commonwealth, (iii) any employee of a corporation if such execution debtor is a corporation having an office but no officers in the Commonwealth provided that a copy of the summons shall also be served upon the registered agent of the corporation, or (iv) any debtor to, or bailee of, the execution debtor.

B. The summons shall require him to appear before the court from which the fieri facias issued or a commissioner of the county or city in which such court is located, or a like court or a commissioner of a county or city contiguous thereto, or upon request of the execution creditor, before a like court or a commissioner of the county or city in which the execution debtor resides, or of a county or city contiguous thereto, to answer such interrogatories as may be propounded to him by the execution creditor or his attorney, or the court, or the commissioner, as the case may be. If the execution creditor requests that the summons require the execution debtor to appear before a like court of the county or city in which the execution debtor resides, or of a county or city contiguous thereto, the case may be filed or docketed in accordance with the requirements of § 8.01-506.2 prior to issuance of the summons.

C. Provided, however, that as a condition precedent to proceeding under this section, the execution creditor has furnished to the court a certificate setting forth that he has not proceeded against the execution debtor under this section within the six months last preceding the date of such certificate. Except that for good cause shown, the court may, on motion of the execution creditor, issue an order allowing further proceedings before a commissioner by interrogatories during the six-month period. Any judgment creditor who knowingly gives false information upon any such certificate made under this article shall be guilty of a Class 1 misdemeanor. [ *Nothing in this subsection shall be construed to prevent the reissuance of one or more summonses to answer interrogatories within the six months last preceding the date of such certificate when the execution debtor was not served with process to answer such interrogatories or the execution debtor was not otherwise subjected to interrogatories under oath in response to any such summons. The issuance of a summons that is not served shall not constitute the act of proceeding against an execution debtor for purposes of making the certificate required by this subsection.* ]

D. The debtor or other person served with such summons shall appear at the time and place mentioned and make answer to such interrogatories. The commissioner shall, at the request of either of the parties, enter in his proceedings and report to the court mentioned in § 8.01-507.1, any and all objections taken by such debtor against answering such interrogatories, or any or either of them, and if the court afterwards sustains any one or more of such objections, the answers given to such interrogatories as to which objections are sustained shall be held for naught in that or any other case.

E. Notwithstanding the foregoing provisions of this section, the court from which a writ of fieri facias issued, upon motion by the execution debtor and for good cause shown, shall transfer debtor interrogatory proceedings to a forum more convenient to the execution debtor.

ENGROSSED

SB1262E