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HOUSE BILL NO. 1345

Offered January 22, 2010

A BILL to amend and reenact § 64.1-134 of the Code of Virginia, relating to probate; list of heirs.

Patron—Barlow

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 64.1-134 of the Code of Virginia is amended and reenacted as follows:

§ 64.1-134. List of heirs.

Every (i) personal representative of a decedent, whether such decedent died testate or intestate, at the time of his qualification, and (ii) proponent of a will where there is no qualification of a personal representative, when the will is presented for probate, shall furnish the court or clerk where he qualifies and the clerk of the circuit court of the city or county where real estate that is an asset of the decedent's estate is located, a list of heirs under oath in accordance with a form provided to each clerk of court by the Office of the Executive Secretary of the Supreme Court or a computer-generated facsimile thereof.

If there has been no qualification of a personal representative within ~~thirty~~ 30 days following death, a list of heirs, made under oath in accordance with the form provided to each clerk or a computer generated facsimile, may be filed by any heir at law of a decedent who died intestate.

The clerk shall record such list in the will book and index in the name of the decedent and the heirs. Such list so made and recorded shall be prima facie evidence of the facts therein stated. The cost of recording such list shall be deemed a part of the cost of administration and be paid out of the estate of the decedent. Such personal representative shall not receive any compensation for his services until such list is filed unless he files an affidavit before the commissioner of accounts that the heirs are unknown to him and that after diligent inquiry he has been unable to ascertain their names, ages or addresses, as the case may be.

The list of heirs filed pursuant to this section shall reflect the heirs in existence on the date of the decedent's death. If there have been any changes as to who should be included on the list of heirs between the date of the decedent's death and the time the list is filed, an additional list of heirs shall be filed that includes such changes.

INTRODUCED

HB1345