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HOUSE BILL NO. 231

Offered January 13, 2010

Prefiled January 11, 2010

A BILL to amend and reenact § 16.1-77 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2108.1, relating to interpleader of real estate escrows.

Patrons—Dance and Marshall, D.W.

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-77 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2108.1 as follows:

§ 16.1-77. Civil jurisdiction of general district courts.

Except as provided in Article 5 (§ 16.1-122.1 et seq.) of this chapter, each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person that would be recoverable by action at law or suit in equity, when the amount of such claim does not exceed \$4,500 exclusive of interest and any attorney's fees contracted for in the instrument, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed \$15,000, exclusive of interest and any attorney's fees contracted for in the instrument. However, this \$15,000 limit shall not apply with respect to distress warrants under the provisions of § 55-230, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143.

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed \$15,000 exclusive of interest and any attorney's fees contracted for in the instrument.

(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 13 (§ 55-217 et seq.) of Title 55, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against any person obligated on the lease proved to be owing where the premises were used by the occupant primarily for business, commercial or agricultural purposes. Any counter-claim or cross-claim shall arise out of the same use of the property for business, commercial or agricultural purposes.

(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code of Virginia.

(5) Jurisdiction to try and decide suits in interpleader involving personal or real property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. *However, the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim, or cross-claim in an interpleader action that is limited to the disposition of an earnest money deposit pursuant to a real estate purchase contract.* The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment or, by warrant in debt, or by other uniform court form established by the Supreme Court. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.

(6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and Dissemination Practices Act, for writs of mandamus or for injunctions.

(7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2.

(8) Jurisdiction to try and decide cases alleging a civil violation described in § 18.2-76.

§ 54.1-2108.1 Protection of escrow funds, etc., held by a real estate broker in the event of foreclosure of real property.

Notwithstanding any other provision of law:

INTRODUCED

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59 1. If a real estate broker or an agent of the licensee is holding escrow funds for the owner of a real
60 property and such property is foreclosed upon by a lender, the licensee or an agent of the licensee shall
61 have the right to file an interpleader action pursuant to § 16.1-77.

62 2. If there is in effect at the date of the foreclosure sale, a real estate purchase contract to buy the
63 property foreclosed upon and the real estate purchase contract provides that the earnest money deposit
64 held in escrow by a licensee shall be paid to a party to the contract in the event of a termination of the
65 real estate purchase contract, the foreclosure shall be deemed a termination of the real estate purchase
66 contract and the licensee or an agent of the licensee may, absent any default on the part of the
67 purchaser, disburse the earnest money deposit to the purchaser pursuant to such provisions of the real
68 estate purchase contract without further consent from, or notice to, the parties.

69 3. If there is in effect at the date of the foreclosure sale, a tenant in a residential dwelling unit
70 foreclosed upon and the landlord is holding a security deposit of the tenant, the landlord shall handle
71 the security deposit in accordance with applicable law, which requires the holder of the landlord's
72 interest in the dwelling unit at the time of termination of tenancy to return any security deposit and any
73 accrued interest that is duly owed to the tenant, whether or not such security deposit is transferred with
74 the landlord's interest by law or equity, and regardless of any contractual agreements between the
75 original landlord and his successors in interest. Nothing herein shall be construed to prevent the
76 landlord from making lawful deductions from the security deposit in accordance with applicable law.