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HOUSE BILL NO. 1534

Offered January 12, 2011

Prefiled December 28, 2010

A BILL to amend and reenact §§ 8.01-128 and 16.1-77 of the Code of Virginia, relating to civil jurisdiction in actions of unlawful entry or detainer in general district court.

Patrons—Sherwood; Senator: Vogel

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 8.01-128 and 16.1-77 of the Code of Virginia are amended and reenacted as follows:**

§ 8.01-128. Verdict and judgment; damages.

A. If it appears that the plaintiff was forcibly or unlawfully turned out of possession, or that it was unlawfully detained from him, the verdict or judgment shall be for the plaintiff for the premises, or such part thereof as may be found to have been so held or detained. The verdict or judgment shall also be for such damages as the plaintiff may prove to have been sustained by him by reason of such forcible or unlawful entry, or unlawful detention, of such premises, and such rent as he may prove to have been owing to him; ~~provided such damages and rent claimed shall not exceed the jurisdictional amount of the court in which the action is tried.~~

B. The plaintiff may, alternatively, receive a final, appealable judgment for possession of the property unlawfully entered or unlawfully detained and be issued a writ of possession, and continue the case for up to 90 days to establish final rent and damages. If the plaintiff elects to proceed under this section, the judge shall hear evidence as to the issue of possession on the initial court date and shall hear evidence on the final rent and damages at the hearing set on the continuance date, unless the plaintiff requests otherwise or the judge rules otherwise. Nothing in this section shall preclude a defendant who appears in court at the initial court date from contesting an unlawful detainer action as otherwise provided by law.

If under this section an appeal is taken as to possession, the entire case shall be considered appealed. The plaintiff shall, in the instance of a continuance taken under this section, mail to the defendant at the defendant's last known address at least 15 days prior to the continuance date a notice advising of (i) the continuance date; (ii) the amounts of final rent and damages; and (iii) that the plaintiff is seeking judgment for additional sums. A copy of such notice shall be filed with the court.

C. No verdict or judgment rendered under this section shall bar any separate concurrent or future action for any such damages or rent as may not be so claimed.

§ 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

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59 any provisions of the Code of Virginia.

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

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

74 (7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate
75 habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title
76 46.2.

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