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HOUSE BILL NO. 1706

Offered January 12, 2011

Prefiled January 10, 2011

A *BILL to amend and reenact § 8.01-389 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 1 of Title 17.1 a section numbered 17.1-133, relating to admissibility of judicial records.*

Patron—Merricks

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-389 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 17.1 a section numbered 17.1-133 as follows:

§ 8.01-389. Judicial records as evidence; full faith and credit; recitals in deeds, deeds of trust, and mortgages; "records" defined.

A. The records of any judicial proceeding and any other official records of any court of this Commonwealth shall be received as prima facie evidence provided that such records are ~~authenticated~~ and certified by the clerk of the court where preserved to be a true record. For the purposes of this section, judicial proceeding shall include the review of a petition and issuance of a temporary detention order under § 16.1-340.1 or 37.2-809.

A1. The records of any judicial proceeding and any other official record of any court of another state or country, or of the United States, shall be received as prima facie evidence provided that such records are ~~authenticated~~ certified by the clerk of the court where preserved to be a true record.

B. Every court of this Commonwealth shall give such records of courts not of this Commonwealth the full faith and credit given to them in the courts of the jurisdiction from whence they come.

B1. In any instance in which a court not of this Commonwealth shall have entered an order of injunction limiting or preventing access by any person to the courts of this Commonwealth without that person having had notice and an opportunity for a hearing prior to the entry of such foreign order, that foreign order is not required to be given full faith and credit in any Virginia court. The Virginia court may, in its discretion, hold a hearing to determine the adequacy of notice and opportunity for hearing in the foreign court.

C. Specifically, recitals of any fact in a deed or deed of trust of record conveying any interest in real property shall be prima facie evidence of that fact.

D. "Records" as used in this article, shall be deemed to include any memorandum, report, paper, data compilation, or other record in any form, or any combination thereof.

E. *The use of the term "copy teste," or other words to that effect, followed by the signature of the clerk or deputy clerk of the court where the record is preserved shall mean that the document to which the signature is appended, affixed, or attached is certified by such clerk to be a true, correct, and accurate copy of the original record in the custody of the office of such clerk.*

§ 17.1-133. Admissibility of circuit court records.

Notwithstanding any other provision of law, the admissibility in evidence of any record of any judicial proceeding or any other official records of any circuit court shall be governed by § 8.01-389.

INTRODUCED

HB1706