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SENATE BILL NO. 365

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 1, 2012)

(Patron Prior to Substitute—Senator Deeds)

A BILL to amend and reenact §§ 46.2-417 and 46.2-427 of the Code of Virginia, relating to satisfaction of judgments for damages in a motor vehicle accident.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-417 and 46.2-427 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-417. Suspension for failure to satisfy motor vehicle accident judgment; exceptions; insurance in liquidated company; insurer obligated to pay judgment.

A. Upon the application of any judgment creditor, the Commissioner shall suspend the driver's license and all of the registration certificates and license plates of any person who has failed for 30 days to satisfy any judgment (i) in an amount and on a cause of action as hereinafter stated in this subsection or (ii) in an amount and on a cause of action pursuant to §§ 15.2-1716 or 15.2-1716.1, immediately upon receiving an authenticated judgment order or abstract thereof in an action for damages in a motor vehicle accident or pursuant to §§ 15.2-1716 or 15.2-1716.1, if the order or abstract is received by the Commissioner within 10 years of the date of judgment or if the judgment has been revived. However, if judgment is marked satisfied on the court records on or before the Commissioner's issuance of suspension, the order of suspension shall be invalid.

B. The Commissioner shall not, however, suspend the license of an owner or driver if the insurance carried by him was in a company which was authorized to transact business in this Commonwealth and which subsequent to an accident involving the owner or driver and prior to settlement of the claim therefor went into liquidation, so that the owner or driver is thereby unable to satisfy the judgment arising out of the accident.

C. The Commissioner shall not suspend the driver's license or driving privilege or any registration certificate, license plates, or decals under clause (i) of subsection A of this section or § 46.2-418, if the Commissioner finds that an insurer authorized to do business in the Commonwealth was obligated to pay the judgment upon which suspension is based, or that a policy of the insurer covers the person subject to the suspension, if the insurer's obligation or the limits of the policy are in an amount sufficient to meet the minimum amounts required by § 46.2-472, even though the insurer has not paid the judgment for any reason. A finding by the Commissioner that an insurer is obligated to pay a judgment, or that a policy of an insurer covers the person, shall not be binding upon the insurer and shall have no legal effect whatever except for the purpose of administering this article. Whenever in any judicial proceeding it is determined by any final judgment, decree, or order that an insurer is not obligated to pay the judgment, the Commissioner, notwithstanding any contrary finding made by him, forthwith shall suspend the driver's license or driving privilege, or any registration card, license plates or decals of any person against whom the judgment was rendered, as provided in subsection A of this section.

D. Any suspensions timely requested by any judgment creditor under subsection A and issued by the Commissioner shall not extend (i) beyond 10 years from the date of judgment for any civil judgment obtained in a general district court, unless the judgment creditor notifies the Commissioner that an extension has been granted as provided in subdivision B 4 of § 16.1-69.55 or (ii) beyond 20 years from the date of judgment for any civil judgment obtained in a circuit court, unless the judgment creditor notifies the Commissioner that an extension has been granted as provided in § 8.01-251. The expiration of such suspension shall not relieve the judgment debtor of complying with the requirements of proof of financial responsibility pursuant to subsection B of § 46.2-411 and the reinstatement fees pursuant to subsections C and F of § 46.2-411 after the judgment debtor becomes eligible for restoration of his driving privileges.

§ 46.2-427. When suspensions to remain effective; relief from furnishing proof of financial responsibility; prohibition against registration in name of another person.

The suspension required by the provisions of § 46.2-417 shall continue except as otherwise provided by §§ 46.2-421 and 46.2-423 until the person satisfies the judgment or judgments as prescribed in § 46.2-419 and gives proof of his financial responsibility in the future. However, the judgment debtor whose driving privileges, registration certificates, and license plates have been so suspended may petition the court that entered the judgment for reinstatement of his driving privileges, registration certificates, and license plates and the court may order reinstatement, even though if the judgment has not been satisfied and even if that judgment may no longer be enforced, provided the judgment debtor proves by a preponderance of the evidence that the judgment debtor (i) is unable, after examination of the records

60 of the Department and the court reflecting that suspension and the exercise of due diligence, to locate
61 the person to whom payment is due or, if the person to whom payment is due is dead, the judgment
62 debtor is unable to identify either who are his heirs and assignees, or where they are located, and (ii)
63 has paid into the court an amount equal to the judgment, court costs, and all interest that has accrued up
64 to the date payment was made to the court. Any payment made to the court under this section shall be
65 held for one year and, if unclaimed by the judgment creditor during that period, shall be transmitted by
66 the court to the State Treasurer or his designee to be disposed of pursuant to Chapter 11.1 (§ 55-210.1
67 et seq.) of Title 55.

68 Upon receipt of such an order, the Commissioner shall reinstate the driving privileges, registration
69 certificates, and license plates of the judgment debtor, provided the judgment debtor has given proof of
70 his financial responsibility in the future and satisfied all other reinstatement requirements as provided in
71 this chapter.

72 The motor vehicle involved in the accident on which the suspension under § 46.2-417 is based shall
73 not be registered in the name of any other person when the Commissioner has reasonable grounds to
74 believe that the registration of the vehicle will have the effect of defeating the purpose of the chapter
75 and no other motor vehicle shall be registered, and no driver's license or learner's permit shall be issued
76 in the name of the person suspended, except as prescribed in § 46.2-437 until the suspension is
77 terminated.

78 This section shall not relieve any person from giving or maintaining proof of his financial
79 responsibility when he is required ~~so~~ to do *so* for some reason rather than having been involved in a
80 motor vehicle accident.

81 **2. That the provisions of this act shall become effective on January 1, 2013.**