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HOUSE BILL NO. 1618

Offered January 9, 2013

Prefiled January 6, 2013

A BILL to amend and reenact §§ 8.01-262, 8.01-265, and 16.1-77.2 of the Code of Virginia, relating to venue in civil cases; conduct of business activity; change of venue.

Patrons—Gilbert, Bell, Richard P., Bell, Robert B., Cline, Cosgrove, Cox, J.A., Crockett-Stark, Fariss, Head, Helsel, Hodges, Kilgore, Massie, Miller, Morris, Rush, Scott, E.T., Villanueva, Ware, R.L., Yancey and Yost

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-262, 8.01-265, and 16.1-77.2 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-262. Category B or permissible venue.

In any actions to which this chapter applies except those actions enumerated in Category A where preferred venue is specified, one or more of the following counties or cities shall be permissible forums, such forums being sometimes referred to as "Category B" in this title:

1. Wherein the defendant resides or has his principal place of employment or, if the defendant is a corporation, *partnership, or limited liability company, wherein its principal office or place of business is located* or wherein its mayor, rector, president, or other chief officer resides;

2. Wherein the defendant has a registered office, has appointed an agent to receive process, or such agent has been appointed by operation of the law; or, in case of withdrawal from ~~this the~~ Commonwealth by such defendant, wherein venue herein was proper at the time of such withdrawal;

~~3. Wherein the defendant regularly conducts substantial business activity, or in the case of withdrawal from this Commonwealth by such defendant, wherein venue herein was proper at the time of such withdrawal;~~

4. Wherein the cause of action, or any part thereof, arose;

~~5.~~ 4. In actions to recover or partition personal property, whether tangible or intangible, the county or city:

(a) ~~a.~~ a. Wherein such property is physically located; or

(b) ~~b.~~ b. Wherein the evidence of such property is located;

(c) ~~c.~~ c. And if subdivisions ~~5 (a) a~~ and ~~5 (b) b~~ do not apply, wherein the plaintiff resides.

~~6.~~ 5. In actions against a fiduciary as defined in § 8.01-2 appointed under court authority, the county or city wherein such fiduciary qualified;

7. 6. In actions for improper message transmission or misdelivery wherein the message was transmitted or delivered or wherein the message was accepted for delivery or was misdelivered;

8. 7. In actions arising based on delivery of goods, wherein the goods were received;

9. 8. If there is no other forum available in subdivisions 1 through 8 7 of this category, then the county or city where the defendant has property or debts owing to him subject to seizure by any civil process; or

~~10.~~ 9. Wherein any of the plaintiffs reside if (i) all of the defendants are unknown or are nonresidents of the Commonwealth or if (ii) there is no other forum available under any other provisions of § 8.01-261 or this section.

§ 8.01-265. Change of venue by court.

In addition to the provisions of § 8.01-264 and notwithstanding the provisions of §§ 8.01-195.4, 8.01-260, 8.01-261 and 8.01-262, the court wherein an action is commenced may, upon motion by any party and for good cause shown, (i) dismiss an action brought by a person who is not a resident of the Commonwealth without prejudice under such conditions as the court deems appropriate if the cause of action arose outside of the Commonwealth and if the court determines that a more convenient forum which has jurisdiction over all parties is available in a jurisdiction other than the Commonwealth or (ii) transfer the action to any fair and convenient forum having jurisdiction within the Commonwealth. Such conditions as the court deems appropriate shall include, but not be limited to, a requirement that the defendant agree not to assert the statute of limitations as a defense if the action is brought in a more convenient forum within a time specified by the court. The court, on motion of any party and for good cause shown, may retain the action for trial. Except by agreement of all parties, no action enumerated in Category A, § 8.01-261, shall be transferred to or retained by a forum not enumerated in such category. Good cause shall be deemed to include, but not to be limited to, the agreement of the parties or the

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57 avoidance of substantial inconvenience to the parties or the witnesses, *the lack of a practical nexus*
58 *between the forum and the underlying cause of action*, or complying with the law of any other state or
59 the United States.

60 The provisions of *clause (i) of this section* shall not apply to causes of action which accrue under
61 *subdivision 4 of § 8.01-249(4)*.

62 **§ 16.1-77.2. Jurisdiction of partition of personal property and proceedings therefor.**

63 Every general district court shall have jurisdiction of proceedings for partition of personal property,
64 within the limits as to value and in accordance with the provisions hereinafter contained.

65 When joint owners of personal property of the value of more than \$20 but not more than maximum
66 jurisdictional limits of the court as provided in *subdivision (1) of § 16.1-77 (4)* cannot agree upon a
67 partition thereof, any party in interest may compel partition, the proceeding for which shall be
68 commenced by a petition presented to a general district court as prescribed in ~~subsection 5~~ *subdivision 4*
69 of § 8.01-262. A copy of the petition, together with a notice of the time and place the petitioner will ask
70 for a hearing thereon, shall be served on each of the defendants at least 10 days prior to the day of
71 hearing. The court shall hear and decide the matter without the appointment or use of commissioners.

72 Any party aggrieved by a final judgment rendered by the general district court in any such
73 proceeding shall have an appeal of right to any circuit court of the county or city having jurisdiction of
74 appeals from such general district court, to be perfected within the time, and in all other respects in
75 accordance with the provisions of law concerning appeals from general district courts in other civil
76 cases.