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**SENATE BILL NO. 757**

Offered January 9, 2013

Prefiled December 17, 2012

A *BILL to amend the Code of Virginia by adding in Article 2 of Chapter 1 of Title 64.2 a section numbered 64.2-109, relating to no-contest clauses; exceptions.*

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Patron—Edwards

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 2 of Chapter 1 of Title 64.2 a section numbered 64.2-109 as follows:**

**§ 64.2-109. Limitations on penalty clause for contest.**

*A provision of a will or trust instrument purporting to penalize an interested person for contesting the will or trust or instituting other proceedings relating to an estate or trust is unenforceable with respect to an action that does not question or challenge the validity of the will or trust but instead seeks only to interpret or enforce the instrument or to assure that it is administered pursuant to its terms and applicable law, including:*

*1. An action seeking judicial interpretation or construction of a term or terms in the governing instrument;*

*2. An action questioning whether actions taken by a personal representative, trustee, or other fiduciary are consistent with the terms of the governing instrument or applicable law, or seeking to surcharge or remove a personal representative, trustee, or other fiduciary for having taken actions that are inconsistent with the terms of the governing instrument or applicable law;*

*3. An action questioning the accuracy of an inventory, accounting, or report by a personal representative, trustee, or other fiduciary;*

*4. An introduction of a will, codicil, trust amendment, or other superseding instrument that purports to be later in time than the will or trust instrument containing such provision;*

*5. An assertion of an objection to the jurisdiction of the court in which a will was offered for probate;*

*6. A reasonable request for disclosure of information relating to any document offered for probate as a will or under administration as a trust, including an action for an accounting;*

*7. A refusal or failure to join in a petition for the probate of a document as a last will or to execute a consent to, or waiver of, notice of a probate proceeding; and*

*8. An action to determine or contest a determination of the validity, enforceability, or amount of a creditor's claim against the estate or trust.*

INTRODUCED

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