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HOUSE BILL NO. 90

Offered January 8, 2014

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A BILL to amend and reenact §§ 17.1-114, 17.1-330, 44-146.16, and 56-247.1 of the Code of Virginia, relating to federal government shutdown; creditor process; utility service.

 Patron—Marshall, R.G.

 Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.1-114, 17.1-330, 44-146.16, and 56-247.1 of the Code of Virginia are amended and reenacted as follows:

§ 17.1-114. When and how changed.

Whenever in the opinion of a circuit court or the judge thereof, the courthouse or other place wherein it is required to hold its session cannot or should not for any reason be occupied by it, or if the same has been destroyed, or is being repaired, renovated, or enlarged, the court may hold its session at such places within the geographical limits of the same judicial circuit as the court may direct by an order to its clerk. The court shall continue to hold its sessions in such other place until the courthouse or its lawful place of session can be occupied, or until another has been built and fitted for the court's occupation, or until such repairs, renovations, or additions have been completed, or until some other place is designated by the court. Except as provided in subsection *C* of § 17.1-330 or this section or as agreed to by all parties to an action, no session of a circuit court shall be held outside the geographical limits of the county or city of which it is the court.

In the interest of justice, the chief judges of the Twenty-first and the Twenty-third Judicial Circuits may, by order, designate one or more of the courtrooms of any circuit court within their respective circuits as the courtroom or courtrooms in which civil or criminal cases whose venue is laid within the circuit may be tried. In criminal cases, jurors summoned to appear at such courtroom or courtrooms shall reside in the locality in which the crime was committed, except as otherwise provided by law.

§ 17.1-330. Declaration of judicial emergency.

A. A judicial emergency may be declared as provided in this section when a disaster, as defined in § 44-146.16, substantially endangers or impedes the operation of a court, the ability of persons to avail themselves of the court, or the ability of litigants or others to have access to the court or to meet schedules or time deadlines imposed by court order, rule, or statute. Notwithstanding any other provision of law, the Chief Justice of the Supreme Court or, if the Chief Justice is unavailable, the justice longest in continuous service who is available, shall have the power to declare by order a judicial emergency (i) for any court upon the request of the Governor, (ii) for the Supreme Court sua sponte, (iii) for the Court of Appeals, upon the request of the chief judge of the Court of Appeals or, if the chief judge is unavailable, the judge of the Court of Appeals longest in continuous service who is available, or (iv) for any circuit or district court upon the request of the chief judge of the affected circuit or district court or, if the chief judge is unavailable, the judge from the affected circuit or district court longest in continuous service who is available.

B. A judicial emergency may be declared as provided in this section upon the request of the Governor when the Governor has declared a state of emergency pursuant to Chapter 3.2 (§ 44-146.13 *et seq.*) of Title 44 in response to a federal government shutdown, as defined in § 44-146.16. Notwithstanding any other provision of law, the Chief Justice of the Supreme Court or, if the Chief Justice is unavailable, the justice longest in continuous service who is available shall have the power to declare by order a judicial emergency for all courts in the Commonwealth. Such order shall suspend all judicial proceedings or other court matters involving creditor process where the defendant is a federal government employee or contractor. The Supreme Court may, in its discretion, suspend such proceedings or matters for other defendants if it finds that such defendants will be disproportionately adversely affected by the federal government shutdown. The Supreme Court shall promulgate rules governing the manner in which parties to proceedings or matters covered by an order issued pursuant to this subsection shall receive notice of the order and the procedures for resuming such proceedings or matters once the order expires. For purposes of this section, "creditor process" means any levy, attachment, garnishment, notice of lien, sequestration, or other legal or equitable process by or on behalf of a creditor or other claimant.

C. Any order declaring a judicial emergency shall specify (i) the court or courts and facilities affected by the order; (ii) the nature of the disaster necessitating the order; (iii) the time period or

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59 duration of the judicial emergency; and (iv) any other information relevant to the suspension or
60 restoration of court operations, including but not limited to extension of deadlines. The order shall
61 become effective for each affected court upon the date set forth in the order or, if no date is set forth in
62 the order, upon the date the order is signed.

63 C. D. Notwithstanding any other provision of law, an order declaring a judicial emergency may
64 designate a neighboring city or county not affected by the disaster for the temporary relocation of the
65 affected circuit or district court. Locations designated under this section may be outside the geographical
66 limits of the affected court's circuit or district.

67 If an affected circuit or district court conducts sessions in a city or county not affected by the
68 disaster pursuant to this section, the unaffected city or county shall be a proper venue for civil and
69 criminal actions to the same extent as if the affected court were operating in its original city or county.
70 An affected circuit court may, upon motion of either party, and for good cause shown, summon jurors
71 from the jurisdiction where the affected circuit court has been temporarily relocated.

72 D. E. Notwithstanding any other provision of law, such order may suspend, toll, extend, or otherwise
73 grant relief from deadlines, time schedules, or filing requirements imposed by otherwise applicable
74 statutes, rules, or court orders in any court processes and proceedings, including all appellate court time
75 limitations.

76 E. F. The duration of the order shall be for the shortest period of time necessary under the
77 circumstances of the emergency, but in no event shall the period exceed 21 calendar days. Any such
78 order may be extended for additional periods not to exceed 21 calendar days by a majority of the
79 justices of the Supreme Court, and any order of extension shall include the information required by
80 subsection B C for the issuance of an initial order. In the event of a communicable disease of public
81 health threat, as defined in § 44-146.16, a majority of the justices of the Supreme Court may extend
82 such order for the duration of the threat.

83 **§ 44-146.16. Definitions.**

84 As used in this chapter, unless the context requires a different meaning:

85 "Communicable disease of public health threat" means an illness of public health significance, as
86 determined by the State Health Commissioner in accordance with regulations of the Board of Health,
87 caused by a specific or suspected infectious agent that may be reasonably expected or is known to be
88 readily transmitted directly or indirectly from one individual to another and has been found to create a
89 risk of death or significant injury or impairment; this definition shall not, however, be construed to
90 include human immunodeficiency viruses or tuberculosis, unless used as a bioterrorism weapon.
91 "Individual" shall include any companion animal. Further, whenever "person or persons" is used in
92 Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1, it shall be deemed, when the context
93 requires it, to include any individual;

94 "Disaster" means (i) any man-made disaster including any condition following an attack by any
95 enemy or foreign nation upon the United States resulting in substantial damage of property or injury to
96 persons in the United States and may be by use of bombs, missiles, shell fire, nuclear, radiological,
97 chemical, or biological means or other weapons or by overt paramilitary actions; terrorism, foreign and
98 domestic; also any industrial, nuclear, or transportation accident, explosion, conflagration, power failure,
99 resources shortage, or other condition such as sabotage, oil spills, and other injurious environmental
100 contaminations that threaten or cause damage to property, human suffering, hardship, or loss of life; and
101 (ii) any natural disaster including any hurricane, tornado, storm, flood, high water, wind-driven water,
102 tidal wave, earthquake, drought, fire, communicable disease of public health threat, or other natural
103 catastrophe resulting in damage, hardship, suffering, or possible loss of life;

104 "Discharge" means spillage, leakage, pumping, pouring, seepage, emitting, dumping, emptying,
105 injecting, escaping, leaching, fire, explosion, or other releases;

106 "Emergency" means any occurrence, or threat thereof, whether natural or man-made, which results or
107 may result in substantial injury or harm to the population or substantial damage to or loss of property or
108 natural resources and may involve governmental action beyond that authorized or contemplated by
109 existing law because governmental inaction for the period required to amend the law to meet the
110 exigency would work immediate and irrevocable harm upon the citizens or the environment of the
111 Commonwealth or some clearly defined portion or portions thereof;

112 "Emergency services" means the preparation for and the carrying out of functions, other than
113 functions for which military forces are primarily responsible, to prevent, minimize and repair injury and
114 damage resulting from disasters, together with all other activities necessary or incidental to the
115 preparation for and carrying out of the foregoing functions. These functions include, without limitation,
116 fire-fighting services, police services, medical and health services, rescue, engineering, warning services,
117 communications, radiological, chemical and other special weapons defense, evacuation of persons from
118 stricken areas, emergency welfare services, emergency transportation, emergency resource management,
119 existing or properly assigned functions of plant protection, temporary restoration of public utility
120 services, and other functions related to civilian protection. These functions also include the

administration of approved state and federal disaster recovery and assistance programs;

"Federal government shutdown" means an emergency consisting of a partial or total discontinuance of the provision of federal governmental services, including the furlough or termination of federal government employees or contractors, due to the failure by the U.S. President and Congress to approve the necessary funding for the operations of the federal government.

"Hazard mitigation" means any action taken to reduce or eliminate the long-term risk to human life and property from natural hazards;

"Hazardous substances" means all materials or substances which now or hereafter are designated, defined, or characterized as hazardous by law or regulation of the Commonwealth or regulation of the United States government;

"Interjurisdictional agency for emergency management" is any organization established between contiguous political subdivisions to facilitate the cooperation and protection of the subdivisions in the work of disaster prevention, preparedness, response, and recovery;

"Local emergency" means the condition declared by the local governing body when in its judgment the threat or actual occurrence of an emergency or disaster is or threatens to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship or suffering threatened or caused thereby; provided, however, that a local emergency arising wholly or substantially out of a resource shortage may be declared only by the Governor, upon petition of the local governing body, when he deems the threat or actual occurrence of such an emergency or disaster to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship or suffering threatened or caused thereby; provided, however, nothing in this chapter shall be construed as prohibiting a local governing body from the prudent management of its water supply to prevent or manage a water shortage;

"Local emergency management organization" means an organization created in accordance with the provisions of this chapter by local authority to perform local emergency service functions;

"Major disaster" means any natural catastrophe, including any: hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm or drought, or regardless of cause, any fire, flood, or explosion, in any part of the United States, which, in the determination of the President of the United States is, or thereafter determined to be, of sufficient severity and magnitude to warrant major disaster assistance under the Stafford Act (P.L. 93-288 as amended) to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby and is so declared by him;

"Political subdivision" means any city or county in the Commonwealth and for the purposes of this chapter, the Town of Chincoteague and any town of more than 5,000 population that chooses to have an emergency management program separate from that of the county in which such town is located;

"Resource shortage" means the absence, unavailability or reduced supply of any raw or processed natural resource, or any commodities, goods or services of any kind that bear a substantial relationship to the health, safety, welfare and economic well-being of the citizens of the Commonwealth;

"State of emergency" means the condition declared by the Governor when in his judgment, the threat or actual occurrence of an emergency or a disaster in any part of the Commonwealth is of sufficient severity and magnitude to warrant disaster assistance by the Commonwealth to supplement the efforts and available resources of the several localities, and relief organizations in preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby and is so declared by him.

§ 56-247.1. Commission to require public utilities to follow certain procedures.

A. The Commission shall require that public utilities adhere to the following procedures for services not found to be competitive:

1. Every public utility shall provide its residential customers one full billing period to pay for one month's local or basic services, before initiating any proceeding against a residential customer for nonpayment of local service.

2. Pay the residential customer a fair rate of interest as determined by the Commission on money deposited and return the deposit with the interest after not more than one year of satisfactory credit has been established.

3. Every public utility shall establish customer complaint procedures which will insure prompt and effective handling of all customer inquiries, service requests and complaints. Such procedure shall be approved by the Commission before its implementation and it shall be distributed to its residential customers.

4. No electric or gas utility shall terminate a customer's service without 10 days' notice by mail to the customer.

5. No public utility shall terminate the residential service of a customer for such customer's nonpayment of basic nonresidential services as defined by its terms and conditions on file with the

182 Virginia State Corporation Commission.

183 6. A public utility providing water service shall not terminate service for nonpayment until it first
184 sends the customer written notice by mail 10 days in advance of making the termination but, in no
185 event, shall it terminate the customer's service until 20 days after the customer's bill has become due.
186 Any such notice shall also include contact information for the customer's use in contacting the public
187 utility regarding the notice.

188 7. Any electric utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.) may install and
189 operate, upon a customer's request and pursuant to an appropriate tariff for any type or classification of
190 service, a prepaid metering equipment and system that is configured to terminate electric service
191 immediately and automatically when the customer has incurred charges for electric service equal to the
192 customer's prepayments for such service. Subdivisions 1, 2, 4, and 5 shall not apply to services provided
193 pursuant to electric service provided on a prepaid basis by a prepaid metering equipment and system
194 pursuant to this subsection. Such tariffs shall be filed with the Commission for its review and
195 determination that the tariff is not contrary to the public interest.

196 8. *No public utility shall terminate a customer's service for nonpayment during the period that a*
197 *state of emergency is in effect when the Governor has declared a state of emergency pursuant to*
198 *Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 in response to a federal government shutdown, as defined*
199 *in § 44-146.16, if the Commission determines that such customer (i) is a federal government employee*
200 *or contractor or (ii) will be disproportionately adversely affected by the federal government shutdown.*

201 B. Any and all Commission rules and regulations concerning the denial of telephone service for
202 nonpayment of such service shall not apply to services found to be competitive.