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HOUSE BILL NO. 2016

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 28, 2015)

(Patron Prior to Substitute—Delegate Surovell)

A BILL to amend and reenact §§ 8.01-606 and 64.2-454 of the Code of Virginia, relating to actions for personal injury and wrongful death; qualification of fiduciary.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-606 and 64.2-454 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-606. Payment of small amounts to certain persons through court without intervention of fiduciary; authority of commissioners of accounts; certain fiduciaries exempt from accountings.

A. Whenever there is due to any person, any sum of money from any source, not exceeding \$25,000, the fund may be paid into the circuit court of the county or city in which the fund became due or such person resides. The court may, by an order entered of record, (i) pay the fund to the person to whom it is due, if the person is considered by the court competent to expend and use the same in his behalf, or (ii) pay the fund to some other person who is considered competent to administer it, for the benefit of the person entitled to the fund, without the intervention of a fiduciary, whether the other person resides within or without this Commonwealth. The clerk of the court shall take a receipt from the person to whom the money is paid, which shall show the source from which it was derived, the amount, to whom it belongs, and when and to whom it was paid. The receipt shall be signed and acknowledged by the person receiving the money, and entered of record in the book in the clerk's office in which the current fiduciary accounts are entered and indexed. Upon the payment into court the person owing the money shall be discharged of such obligation. No bond shall be required of the party to whom the money is paid by the court.

B. Whenever (i) it appears to the court having control of a fund, tangible personal property or intangible personal property or supervision of its administration, whether a suit is pending therefor or not, that a person under a disability who has no fiduciary, is entitled to a fund arising from the sale of lands for a division or otherwise, or a fund, tangible personal property or intangible personal property as distributee of any estate, or from any other source, (ii) a judgment, decree, or order for the payment of a sum of money or for delivery of tangible personal property or intangible personal property to a person under a disability who has no fiduciary is rendered by any court, and the amount to which such person is entitled or the value of the tangible personal property or intangible personal property is not more than \$25,000, or (iii) a person under a disability is entitled to receive payments of income, tangible personal property or intangible personal property and the amount of the income payments is not more than \$25,000 in any one year, or the value of the tangible personal property is not more than \$25,000, or the current market value of the intangible personal property is not more than \$25,000, the court may, without the intervention of a fiduciary, cause such fund, property or income to be paid or delivered to any person deemed by the court capable of properly handling it, to be used solely for the education, maintenance and support of the person under a disability. In any case in which an infant is entitled to such fund, property or income, the court may, upon its being made to appear that the infant is of sufficient age and discretion to use the fund, property or income judiciously, cause the fund to be paid or delivered directly to the infant.

C. Whenever a person is entitled to a fund or such property distributable by a fiduciary settling his accounts before the commissioner of accounts of the court in which the fiduciary qualified, and the amount or value of the fund or property, or the value of any combination thereof, is not more than \$25,000, the commissioner of accounts may approve distribution thereof in the same manner and to the extent of the authority herein conferred upon a court including exemption from filing further accounts where the value of the fund being administered is less than \$25,000.

D. Whenever an incapacitated person or infant is entitled to a fund or such property distributable by a fiduciary settling accounts before the commissioner of accounts of the court in which the fiduciary qualified and the will or trust instrument under which the fiduciary serves, authorizes the fiduciary to distribute the property or fund to the incapacitated person or infant without the intervention of a guardian, conservator or committee, and the amount or value of such fund or property, or the value of any combination thereof, is not more than \$25,000, the commissioner of accounts may approve distribution thereof in the same manner and to the extent of the authority hereinabove conferred upon a court or judge thereof.

E. Whenever a fiduciary is administering funds not exceeding \$25,000, the circuit court of the county or city in which the fund is being administered by order entered of record may authorize the fiduciary, when considered competent to administer the funds, to continue to administer the funds for the benefit

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60 of the person entitled to the fund without the necessity of filing any further accounts, whether such
61 person resides within or without this Commonwealth. The clerk of the court shall take a receipt from the
62 fiduciary, which shall show the amount of the fund remaining, to whom it belongs, and the date the
63 court entered the order exempting the filing of further accounts. The receipt shall be signed and
64 acknowledged by the fiduciary, and entered of record in the book in the clerk's office in which the
65 current fiduciary accounts are entered and indexed. No surety shall be required on the bond of a
66 fiduciary granted an exemption from filing any further accounts.

67 *F. Whenever a fiduciary qualifies pursuant to § 64.2-454 for the sole purpose of prosecuting or*
68 *defending an action, the court in which the fiduciary qualifies or the commissioner of accounts for such*
69 *court may exempt the fiduciary from filing further accounts where the fiduciary is not administering any*
70 *funds and has no power of sale over any real estate the decedent owned.*

71 **§ 64.2-454. Appointment of administrator for prosecution of action for personal injury or**
72 **wrongful death against or on behalf of estate of deceased resident or nonresident.**

73 An administrator may be appointed in any case in which it is represented that *either* a civil action for
74 personal injury or death by wrongful act, *or both*, arising within the Commonwealth is contemplated
75 against or on behalf of the estate or the beneficiaries of the estate of a resident or nonresident of the
76 Commonwealth who has died within or outside the Commonwealth if an executor of the estate has not
77 been appointed, solely for the purpose of prosecution *or defense of any such action* ~~actions~~, by the clerk
78 of the circuit court in the county or city in which jurisdiction and venue would have been properly laid
79 for such ~~action~~ *actions* if the person for whom the appointment is sought had survived. *An administrator*
80 *appointed pursuant to this section may prosecute actions for both personal injury and death by wrongful*
81 *act.*

82 If a fiduciary has been appointed in a foreign jurisdiction, the fiduciary may qualify as administrator.
83 The appointment of a fiduciary in a foreign jurisdiction shall not preclude a resident or nonresident from
84 qualifying as an administrator for the purposes of maintaining a wrongful death action pursuant to
85 § 8.01-50 or a personal injury action in the Commonwealth.

86 A resident and nonresident may be appointed as coadministrators.