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HOUSE BILL NO. 1142

Offered January 10, 2018

Prefiled January 10, 2018

A BILL to amend and reenact § 64.2-1411 of the Code of Virginia, relating to qualification of fiduciary without security; no monetary value.

 Patron—Wilt

 Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 64.2-1411 of the Code of Virginia is amended and reenacted as follows:****§ 64.2-1411. When fiduciary may qualify without security; requirements for issuance of certificates of qualification; payments.**

A. Any circuit court or circuit court clerk, having jurisdiction to appoint personal representatives, guardians, conservators, and committees, may, in his discretion, when the *asset or* amount coming into the possession of the personal representative, guardian of a minor, conservator, or committee *has no monetary value or* does not exceed \$25,000, allow the personal representative, guardian, conservator, or committee to qualify by giving bond without surety.

B. Any personal representative or trustee serving jointly with a bank or trust company that is exempted from giving surety on its bond under § 6.2-1003 shall, unless the court directs otherwise, also be exempt from giving surety.

C. If a fiduciary qualifies pursuant to subsection A, the court or clerk shall issue one or more certificates of qualification pursuant to this section for administration of an estate, guardianship, conservatorship, or committee that does not exceed a cumulative total of \$25,000. Each such certificate shall specify that the maximum amount of estate, guardianship, conservatorship, or committee assets that may be collected pursuant to that certificate shall not exceed \$25,000. Each such certificate shall:

1. Be titled "Qualification Certificate for Small Asset Estate";
2. State in a prominent position on the front of such certificate that any person may pay or deliver to the fiduciary named in the certificate any asset belonging, owed, or distributable to the specified deceased person, incapacitated ward, or minor having a value, on the date of payment or delivery, of no more than \$25,000. Assets held in a safe deposit box shall not be counted toward such \$25,000 limit, and the lessor of a safe deposit box shall not be deemed to know of, and shall have no obligation to determine, the presence or value of any asset in a safe deposit box;

3. State that the certificate (i) may only be used once, (ii) is not effective if it does not have an impression seal of the court clerk and therefore photocopies of the certificate are not effective, and (iii) must be retained by the payor; and

4. Bear the impression seal of the court clerk.

D. Upon being presented with a certificate of qualification issued pursuant to subsection C, any person may pay or deliver to the fiduciary named in such certificate any asset belonging, owed, or distributable to the specified deceased person, incapacitated ward, or minor having a value, on the date of payment, of no more than \$25,000. The payor shall retain possession of such certificate. Assets held in a safe deposit box shall not be counted toward such \$25,000 limit, and the lessor of a safe deposit box shall not be deemed to know of, and shall have no obligation to determine, the presence or value of any asset in a safe deposit box. Any person that makes such payment or delivery upon presentation of a certificate of qualification issued pursuant to subsection C is discharged and released from any or all claims or liabilities for such payment or delivery. Such payor is not required to see the application of such payment or delivery or to inquire into the assets paid or delivered by other parties to a fiduciary that qualifies pursuant to subsection A. A person presented with a certificate of qualification issued pursuant to subsection C shall not be liable for, or subject to, any claims, damages, fines or penalties for paying or distributing assets the person believed in good faith to have a value of \$25,000 or less or for the failure to pay or deliver assets the person believed in good faith to have a value of more than \$25,000.

E. A court clerk shall not be liable for any misrepresentations of a personal representative, guardian, conservator, or committee with regard to whether the estate qualifies for the small asset estate exemption under this section or for the performance of any of the clerk's duties under this section, except in the case of the clerk's gross negligence or intentional misconduct.

INTRODUCED

HB1142