

2018 SESSION

HOUSE SUBSTITUTE

18104726D

HOUSE BILL NO. 162

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 29, 2018)

(Patron Prior to Substitute—Delegate Ware)

A BILL to amend and reenact §§ 8.01-76 and 8.01-85 of the Code of Virginia, relating to proceeds of a sale, a partition suit, or condemnation proceedings; persons under a disability; special needs trust.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-76 and 8.01-85 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-76. How proceeds from disposition to be secured and applied; when same may be paid over.

The proceeds of sale, or rents, income, or royalties, arising from the sale or lease, or other disposition, of lands of persons under a disability, whether in a suit for sale or lease thereof, or in a suit for partition, or in condemnation proceedings, shall be invested under the direction of the court for the use and benefit of the persons entitled to the estate; and in case of a trust estate subject to the uses, limitations, and conditions, contained in the writing creating the trust. The court shall take ample security for all investments so made, and from time to time require additional security, if necessary, and make any proper order for the faithful application and safe investment of the fund, and for the management and preservation of any properties or securities in which the same has been invested, and for the protection of the rights of all persons interested therein, whether such rights be vested or contingent, but nothing hereinbefore contained shall prevent the court having charge thereof from directing such funds to be paid over to the legally appointed and qualified fiduciary (, as defined in § 8.01-67), of the person under a disability, whenever the court is satisfied that such fiduciary has executed sufficient bond; or from applying at any time all or any portion thereof to the proper needs and requirements of the person under a disability. ~~Provided, however, that~~ *However*, if such funds do not exceed ~~\$4,000 the amount set forth in subsection B of § 8.01-606~~, the court, in its discretion and without the intervention of a fiduciary, may pay such funds to any person deemed appropriate by the court for the use and benefit of a person under a disability, whether such person resides within or without the Commonwealth. Such funds not in excess of ~~\$4,000 the amount set forth in subsection B of § 8.01-606~~ shall, when paid over to such person deemed appropriate, be treated as personal property.

Upon request of the legally appointed and qualified fiduciary of the person under the disability or the guardian ad litem of the person under the disability, or upon the court's own motion, the court may order that such funds be distributed to a special needs trust as defined in § 64.2-779.10.

§ 8.01-85. Disposition of share in proceeds of person under disability.

The court making an order for sale shall, ~~when the dividend of a party exceeds \$2500, if such a party to the sale be a person under a disability, order the same any dividend of the sale to be disposed as the proceeds of a sale under the provisions of § 8.01-76 are required to be invested.~~

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