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SENATE BILL NO. 1186

Offered January 9, 2019

Prefiled January 3, 2019

A *BILL to amend and reenact § 64.2-601 of the Code of Virginia, relating to payment or delivery of small asset by affidavit; check, draft, or other negotiable instrument; financial institution.*

Patron—Chafin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 64.2-601 of the Code of Virginia is amended and reenacted as follows:

§ 64.2-601. Payment or delivery of small asset by affidavit.

A. Any person having possession of a small asset shall pay or deliver the small asset to the designated successor of the decedent upon being presented an affidavit made by all of the known successors stating:

1. That the value of the decedent's entire personal probate estate as of the date of the decedent's death, wherever located, does not exceed \$50,000;

2. That at least 60 days have elapsed since the decedent's death;

3. That no application for the appointment of a personal representative is pending or has been granted in any jurisdiction;

4. That the decedent's will, if any, was duly probated;

5. That the claiming successor is entitled to payment or delivery of the small asset, and the basis upon which such entitlement is claimed;

6. The names and addresses of all successors, to the extent known;

7. The name of each successor designated to receive payment or delivery of the small asset on behalf of all successors; and

8. That the designated successor shall have a fiduciary duty to safeguard and promptly pay or deliver the small asset as required by the laws of the Commonwealth.

B. The designated successor may discharge his fiduciary duty to promptly pay or deliver the small asset to a successor who is, or is reasonably believed to be, incapacitated or under a legal disability, by paying or delivering the asset directly to the incapacitated or disabled successor or applying it for such successor's benefit, or by:

1. Paying it to such successor's conservator or, if no conservator exists, guardian;

2. Paying it to such successor's custodian under the Virginia Uniform Transfers to Minors Act (§ 64.2-1900 et seq.) or custodial trustee under the Uniform Custodial Trust Act (§ 64.2-900 et seq.), and, for that purpose, creating a custodianship or custodial trust;

3. If the designated successor does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of such successor to be expended on such successor's behalf; or

4. Managing it as a separate fund on such successor's behalf, subject to such successor's continuing right to withdraw the asset.

C. Any successor may be represented and bound under virtual representation provisions of §§ 64.2-714, 64.2-716, and 64.2-717 with respect to affidavits required and designations of persons to receive payment or delivery of a small asset under this article.

D. A transfer agent of any security, upon the surrender of the certificates, if any, evidencing the security, shall change the registered ownership on the books of a corporation from the decedent to the designated successor upon the presentation of an affidavit as provided in subsection A.

E. Upon the presentation of an affidavit as provided in subsection A, the designated successor may endorse or negotiate any small asset that is a check, draft, or other negotiable instrument that is payable to the decedent or the decedent's estate. *Notwithstanding the provisions of §§ 8.3A-403, 8.3A-417, and 8.3A-420, a financial institution accepting such check, draft, or other negotiable instrument presented in such manner is discharged from all claims for the amount accepted.*

INTRODUCED

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