

2021 SPECIAL SESSION I

INTRODUCED

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SENATE BILL NO. 1108

Offered January 13, 2021

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A BILL to amend and reenact §§ 8.01-195.4, 16.1-77, 43-34, and 46.2-644.03 of the Code of Virginia, relating to general district courts; jurisdictional limits.

Patron—Stanley

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-195.4, 16.1-77, 43-34, and 46.2-644.03 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-195.4. Jurisdiction of claims under this article; right to jury trial; service on Commonwealth or locality; amending amount of claim.

The general district courts shall have exclusive original jurisdiction to hear, determine, and render judgment on any claim against the Commonwealth or any transportation district cognizable under this article when the amount of the claim does not exceed \$4,500, exclusive of interest and any attorneys' attorney fees. Jurisdiction shall be concurrent with the circuit courts when the amount of the claim exceeds \$4,500 but does not exceed ~~\$25,000~~ \$50,000, exclusive of interest and such attorneys' attorney fees. Jurisdiction of claims when the amount exceeds ~~\$25,000~~ \$50,000 shall be limited to the circuit courts of the Commonwealth. The parties to any such action in the circuit courts shall be entitled to a trial by jury.

While a matter is pending in a general district court or a circuit court, upon motion of the plaintiff seeking to increase or decrease the amount of the claim, the court shall order transfer of the matter to the general district court or circuit court that has jurisdiction over the amended amount of the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by the transfer. Where such a matter is pending, if the plaintiff is seeking to increase or decrease the amount of the claim to an amount wherein the general district court and the circuit court would have concurrent jurisdiction, the court shall transfer the matter to either the general district court or the circuit court, as directed by the plaintiff, provided that such court otherwise has jurisdiction over the matter. Except for good cause shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10 days before trial. The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after which time the case shall be removed from the pending docket of the transferring court and the order of transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the receiving court.

In all actions against the Commonwealth commenced pursuant to this article, the Commonwealth shall be a proper party defendant, and service of process shall be made on the Attorney General. The notice of claim shall be filed pursuant to § 8.01-195.6 on the Director of the Division of Risk Management or the Attorney General. In all such actions against a transportation district, the district shall be a proper party and service of process and notices shall be made on the chairman of the commission of the transportation district.

§ 16.1-77. Civil jurisdiction of general district courts; amending amount of claim.

Except as provided in Article 5 (§ 16.1-122.1 et seq.), each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person that would be recoverable by action at law or suit in equity, when the amount of such claim does not exceed \$4,500 exclusive of interest and any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed ~~\$25,000~~ \$50,000, exclusive of interest and any attorney fees. However, this ~~\$25,000~~ \$50,000 limit shall not apply with respect to distress warrants under the provisions of § 8.01-130.4, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143. While a matter is pending in a general district court, upon motion of the plaintiff seeking to increase the amount of the claim, the court shall order transfer of the matter to the circuit court that has jurisdiction over the

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59 amended amount of the claim without requiring that the case first be dismissed or that the plaintiff
60 suffer a nonsuit, and the tolling of the applicable statutes of limitations governing the pending matter
61 shall be unaffected by the transfer. Except for good cause shown, no such order of transfer shall issue
62 unless the motion to amend and transfer is made at least 10 days before trial. The plaintiff shall pay
63 filing and other fees as otherwise provided by law to the clerk of the court to which the case is
64 transferred, and such clerk shall process the claim as if it were a new civil action. The plaintiff shall
65 prepare and present the order of transfer to the transferring court for entry, after which time the case
66 shall be removed from the pending docket of the transferring court and the order of transfer placed
67 among its records. The plaintiff shall provide a certified copy of the transfer order to the receiving court.
68 (2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not
69 exceed ~~\$25,000~~ \$50,000 exclusive of interest and any attorney fees.

70 (3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.)
71 of Chapter 3 of Title 8.01, and in Chapter 14 (§ 55.1-1400 et seq.) of Title 55.1, and the maximum
72 jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or
73 cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against
74 any person obligated on the lease or guarantee of such lease.

75 (4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil
76 action or proceeding conferred upon any general district court judge or magistrate under or by virtue of
77 any provisions of the Code.

78 (5) Jurisdiction to try and decide suits in interpleader involving personal or real property where the
79 amount of money or value of the property is not more than the maximum jurisdictional limits of the
80 general district court. However, the maximum jurisdictional limits prescribed in subdivision (1) shall not
81 apply to any claim, counter-claim, or cross-claim in an interpleader action that is limited to the
82 disposition of an earnest money deposit pursuant to a real estate purchase contract. The action shall be
83 brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the
84 general district court shall not have any power to issue injunctions. Actions in interpleader may be
85 brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion
86 for judgment, by warrant in debt, or by other uniform court form established by the Supreme Court of
87 Virginia. The initial pleading shall briefly set forth the circumstances of the claim and shall name as
88 defendant all parties in interest who are not parties plaintiff.

89 (6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of
90 Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and
91 Dissemination Practices Act (§ 2.2-3800 et seq.), for writs of mandamus or for injunctions.

92 (7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate
93 habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title
94 46.2.

95 (8) Jurisdiction to try and decide any cases pursuant to § 55.1-1819 of the Property Owners'
96 Association Act (§ 55.1-1800 et seq.) or § 55.1-1959 of the Virginia Condominium Act (§ 55.1-1900 et
97 seq.).

98 (9) Concurrent jurisdiction with the circuit courts to submit matters to arbitration pursuant to Chapter
99 21 (§ 8.01-577 et seq.) of Title 8.01 where the amount in controversy is within the jurisdictional limits
100 of the general district court. Any party that disagrees with an order by a general district court granting
101 an application to compel arbitration may appeal such decision to the circuit court pursuant to
102 § 8.01-581.016.

103 For purposes of this section, the territory served by a county general district court expressly
104 authorized by statute to be established in a city includes the general district court courtroom.

105 **§ 43-34. Enforcement of liens acquired under §§ 43-31 through 43-33 and of liens of bailees.**

106 For the purposes of this section, "public place" means a premises owned by the Commonwealth or a
107 political subdivision thereof, or an agency of either, that is open to the general public.

108 Any person having a lien under §§ 43-31 through 43-33 and any bailee, except where otherwise
109 provided, having a lien as such at common law on personal property in his possession that he has no
110 power to sell for the satisfaction of the lien, if the debt for which the lien exists is not paid within 10
111 days after it is due and the value of the property affected by the lien does not exceed \$10,000, may sell
112 such property or so much thereof as may be necessary, by public auction, for cash. The proceeds shall
113 be applied to the satisfaction of the debt and expenses of sale, and the surplus, if any, shall be paid
114 within 30 days of the sale to any lienholder, and then to the owner of the property. A seller who fails to
115 remit the surplus as provided shall be liable to the person entitled to the surplus in an amount equal to
116 \$50 for each day beyond 30 days that the failure continues.

117 Before making the sale, the seller shall advertise the time, place, and terms thereof in any of the
118 following places: (i) a public place in the county or city where the property is located; (ii) a website
119 operated by the Commonwealth, the county or city where the property is located, or a political
120 subdivision of either; or (iii) a newspaper of general circulation in the county or city where the property

is located, either in print or on its website. In the case of property other than a motor vehicle required to be registered in Virginia having a value in excess of \$600, 10 days' prior notice shall be given to any secured party who has filed a financing statement against the property, and written notice shall be given to the owner as hereinafter provided.

If the value of the property is more than \$10,000 but does not exceed ~~\$25,000~~ \$50,000, the party having the lien, after giving notice as herein provided, may apply by petition to any general district court of the county or city wherein the property is, or, if the value of the property exceeds ~~\$25,000~~ \$50,000, to the circuit court of the county or city, for the sale of the property. If, on the hearing of the case on the petition, the defense, if any made thereto, and such evidence as may be adduced by the parties respectively, the court is satisfied that the debt and lien are established and the property should be sold to pay the debt, the court shall order the sale to be made by the sheriff of the county or city. The sheriff shall make the same and apply and dispose of the proceeds in the same manner as if the sale were made under a writ of fieri facias.

If the owner of the property is a resident of the Commonwealth, any notice required by this section may be served as provided in § 8.01-296 or, if the sale is to be made without resort to the courts, by personal delivery or by certified or registered mail delivered to the present owner of the property to be sold at his last known address at least 10 days prior to the date of sale. If the owner of the property is a nonresident or if his address is unknown, any notice required by this section may be served by posting a copy thereof in three of any of the following places in any combination: (i) one or more public places in the county or city where the property is located; (ii) one or more websites operated by the Commonwealth, the county or city where the property is located, or a political subdivision of either; or (iii) one or more newspapers of general circulation in the county or city where the property is located, either in print or on their websites.

§ 46.2-644.03. Enforcement of liens acquired under §§ 46.2-644.01 and 46.2-644.02 and of liens of bailees.

For the purposes of this section, "public place" means a premises owned by the Commonwealth or a political subdivision thereof, or an agency of either, that is open to the general public.

Any person having a lien under §§ 46.2-644.01 and 46.2-644.02 and any bailee, except where otherwise provided, having a lien as such at common law on personal property in his possession that he has no power to sell for the satisfaction of the lien, if the debt for which the lien exists is not paid within 10 days after it is due and the value of the property affected by the lien does not exceed \$12,500, may sell such property or so much thereof as may be necessary, by public auction, for cash. The proceeds shall be applied to the satisfaction of the debt and expenses of sale, and the surplus, if any, shall be paid within 30 days of the sale to any lienholder, and then to the owner of the property. A seller who fails to remit the surplus as provided shall be liable to the person entitled to the surplus in an amount equal to \$50 for each day beyond 30 days that the failure continues.

Before making the sale, the seller shall advertise the time, place, and terms thereof in any of the following places: (i) a public place in the county or city where the property is located; (ii) a website operated by the Commonwealth, the county or city where the property is located, or a political subdivision of either; or (iii) a newspaper of general circulation in the county or city where the property is located, either in print or on its website. In the case of property other than a motor vehicle required to be registered in Virginia having a value in excess of \$600, 10 days' prior notice shall be given to any secured party who has filed a financing statement against the property, and written notice shall be given to the owner as hereinafter provided. If the property is a motor vehicle required by the motor vehicle laws of Virginia to be registered, the person having the lien shall ascertain from the Commissioner of the Department of Motor Vehicles whether the certificate of title of the motor vehicle shows a lien thereon. At that time, the Commissioner shall also determine the value of the property and shall communicate it to the bailee. If the certificate of title shows a lien, the bailee proposing the sale of the motor vehicle shall notify the lienholder of record, by certified mail, at the address on the certificate of title of the time and place of the proposed sale 10 days prior thereto. If the name of the owner cannot be ascertained, the name of "John Doe" shall be substituted in any proceedings hereunder and no written notice as to him shall be required to be mailed. Whenever a vehicle is shown by the Department of Motor Vehicles records to be owned by a person who has indicated that he is on active military duty or service, the Department shall include such information in response to requests for vehicle information pursuant to the requirements of this chapter.

If the value of the property is more than \$12,500 but does not exceed ~~\$25,000~~ \$50,000, the party having the lien, after giving notice as herein provided, may apply by petition to any general district court of the county or city wherein the property is, or, if the value of the property exceeds ~~\$25,000~~ \$50,000, to the circuit court of the county or city, for the sale of the property. If, on the hearing of the case on the petition, the defense, if any made thereto, and such evidence as may be adduced by the parties respectively, the court is satisfied that the debt and lien are established and the property should

182 be sold to pay the debt, the court shall order the sale to be made by the sheriff of the county or city.
183 The sheriff shall make the same and apply and dispose of the proceeds in the same manner as if the
184 sale were made under a writ of fieri facias.

185 In determining the value of the property as required by this section, the Commissioner shall use a
186 recognized pricing guide and, in using such guide, shall use the trade-in value specified in such guide.

187 If the owner of the property is a resident of the Commonwealth, any notice required by this section
188 may be served as provided in § 8.01-296 or, if the sale is to be made without resort to the courts, by
189 personal delivery or by certified or registered mail delivered to the present owner of the property to be
190 sold at his last known address at least 10 days prior to the date of sale. If the owner of the property is a
191 nonresident or if his address is unknown, any notice required by this section may be served by posting a
192 copy thereof in three of any of the following places in any combination: (i) one or more public places
193 in the county or city where the property is located; (ii) one or more websites operated by the
194 Commonwealth, the county or city where the property is located, or a political subdivision of either; or
195 (iii) one or more newspapers of general circulation in the county or city where the property is located,
196 either in print or on their websites.

197 If the property is a motor vehicle (i) for which neither the owner nor any other lienholder or secured
198 party can be determined by the Department of Motor Vehicles through a diligent search of its records,
199 (ii) manufactured for a model year at least six years prior to the current model year, and (iii) having a
200 value of no more than \$3,000 as determined by the provisions of § 8.01-419.1, a person having a lien
201 on such vehicle may, after showing proof that the vehicle has been in his continuous custody for at least
202 30 days, apply for and receive from the Department of Motor Vehicles title or a nonrepairable certificate
203 to such vehicle, free of all liens and claims of ownership of others, and proceed to sell or otherwise
204 dispose of the vehicle.

205 Whenever a motor vehicle is sold hereunder, the Department of Motor Vehicles shall issue a
206 certificate of title and registration or a nonrepairable certificate to the purchaser thereof upon his
207 application containing the serial or motor number of the vehicle purchased together with an affidavit of
208 the lienholder that he has complied with the provisions hereof, or by the sheriff conducting a sale that
209 he has complied with said order.

210 Any garage keeper to whom a motor vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213,
211 or 46.2-1215 may after 30 days from the date of delivery proceed under this section, provided that
212 action has not been taken pursuant to such sections for the sale of such motor vehicle.

213 Notwithstanding any provisions to the contrary, any person having a lien under § 46.2-644.01 or
214 46.2-644.02 shall comply with the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C.
215 § 3901 et seq.) when disposing of a vehicle owned by a member of the military duty or service.