

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 153

An Act to amend and reenact § 58.1-3952 of the Code of Virginia, relating to collection of taxes from third party holding estate of a taxpayer.

[H 252]

Approved April 1, 1994

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3952 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3952. Collection out of estate in hands of or debts due by third party.

A. The treasurer or other tax collector of any county, city or town may apply in writing to any person indebted to or having in his hands estate of a taxpayer for payment of taxes more than thirty days delinquent out of such debt or estate. Payment by such person of such taxes, penalties and interest, either in whole or in part, shall entitle him to a credit against such debt or estate. The taxes, penalties and interest shall constitute a lien on the debt or estate due the taxpayer from the time the application is received. For each application served the person applied to shall be entitled to a fee of twenty dollars which shall constitute a charge or credit against the debt to or estate of the taxpayer. The treasurer or collector shall send a copy of the application to the taxpayer, with a notice informing him of the remedies provided in this chapter.

If the person applied to does not pay so much as ought to be recovered out of the debt or estate, the treasurer or collector shall procure a summons directing such person to appear before the appropriate court, where proper payment may be enforced. Any person so summoned shall have the same rights of removal and appeal as are provided by law for the enforcement of demands between individuals. For purposes of this section, the term "person" shall include but shall not be limited to individuals, corporations, partnerships, institutions, and other such entities, as well as the Commonwealth and its agencies and political subdivisions. However, in no event shall the Commonwealth, its agencies, or its political subdivisions incur any liability for the failure to pay the treasurer's or other tax collector's application under this section.

B. Unless otherwise exempted, the wages and salaries of all employees of this Commonwealth, other than state officers, shall be subject to this section. Whenever the salary or wages of such employees as above mentioned shall be so attached, the application shall be mailed to the debtor and to the officer or supervisor who is head of the department, agency, or institution where the employee is employed, or other officer through whom the debtor's salary or wages is paid, provided that process shall not be served upon the State Treasurer or the State Comptroller except as to employees of their respective departments, and upon such service the officer or supervisor shall, on or before the return day of the application, transmit to the treasurer or other tax collector issuing the application a certificate showing the amount due from the Commonwealth to such debtor, up to the return day of the application, which amount the officer or supervisor shall hold subject to further instruction from the treasurer or other tax collector. *However, in no case shall the officer or supervisor hold more than the sum of taxes, penalties and interest stated in the application.* Such certificate shall be evidence of all facts therein stated, unless a court of appropriate jurisdiction directs that the deposition of the officer or supervisor, or such other officer through whom the debtor's salary or wages be paid, be taken, in which event the deposition of the officer or supervisor shall be taken in his office and returned to the clerk of the court in which the summons is, just as other depositions are returned, and in no such case shall the officer or supervisor be required to leave his office to testify. In all proceedings under this section, the amount found to be due the debtor by the Commonwealth shall be paid as directed by the court.