

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 311

*An Act to amend the Code of Virginia by adding a section numbered 56-265.13:6.1, relating to the appointment of a receiver for small water and sewer public utilities.*

[S 138]

Approved April 5, 1994

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 56-265.13:6.1 as follows:**

*§ 56-265.13:6.1. Appointment of receiver; penalty.*

*A. The Commission may, either upon petition of two-thirds of the affected customers or upon petition of its staff or upon a petition of the Board of Health, appoint a receiver to operate a small water or sewer utility which is unable or unwilling to provide adequate service to its customers. The utility shall be deemed to be unable or unwilling to provide adequate service if the Commission finds, after notice to the utility and the Department of Health and hearing, that:*

*1. The utility has failed to supply water or sewer service to a majority of the consumers for five days or more during the preceding three months for reasons within the control of the water and sewer utility; or*

*2. The Department of Health has certified that the utility has not met Department standards regarding the provision of an adequate quality and quantity of public drinking water and the Department of Health has found that the utility is unwilling to take action to meet these standards; or*

*3. The utility is grossly mismanaged; or*

*4. The utility has failed to comply with an order of the Commission to provide adequate service to the customers.*

*Upon appointment, the receiver shall take possession of the assets of the utility and operate them in the best interests of the customers. Control of and responsibility for the utility shall remain in the receiver until the utility can, in the best interests of customers, be returned to the original owners, transferred to new owners, or liquidated, whichever the Commission may determine to be in the public interest.*

*B. The provisions of §§ 8.01-583 through 8.01-590 shall apply mutatis mutandis. The receiver shall be empowered to make application to the Commission for temporary and permanent rate increases and changes in the utility's rules and regulations.*

*C. If the Commission determines that the utility's actions that caused it to be placed under the control and responsibility of the receiver, under this section, were due to intentional misappropriation or wrongful diversion of the assets or income of such utility or to other willful misconduct by any director, officer, or manager of the utility, it may require such director, officer, or manager to make restitution to the utility. In addition to the foregoing, any such director, officer, manager, or affiliate that commits such misappropriation or wrongful diversion or fails, neglects, or refuses to obey an order, rule, direction, or requirement of the Commission to make restitution to the utility shall be subject to a civil penalty of no more than \$500 for each offense, and each day of such conduct shall constitute a separate offense.*