

LD8729358

HOUSE BILL NO. 1631

Offered January 13, 1995

A BILL to amend and reenact § 26-17.7 of the Code of Virginia, relating to waiver of accounting for testamentary trustees.

Patrons—Mims, Clement, Howell, Kilgore and Murphy; Senators: Calhoun, Miller, K.G. and Stosch

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 26-17.7 of the Code of Virginia is amended and reenacted as follows:

§ 26-17.7. Testamentary trustees under a will waiving accounts.

A. If the will of a decedent probated on or after July 1, 1993, contains a waiver of the obligations of the testamentary trustee nominated therein to account, the trustee will not be required to file accounts with the commissioner of accounts provided the trustee (i) within ninety days after qualification, notifies in writing all beneficiaries of the trust who are adults, whose addresses are known to the trustee and who may then be entitled to receive income or principal from the trust; provides each with a copy of the applicable provisions of the will; advises each of his right to require an annual accounting; and provides each with a copy of this code section and (ii) annually thereafter provides each such beneficiary an accounting upon request. The trustee shall send to the commissioner of accounts a copy of the notice given to each beneficiary or, in the alternative, file a writing with the commissioner stating that the requirements of this section have been met. For receiving and filing such notice or writing, the Commissioner shall be allowed a fee not to exceed twenty-five dollars.

B. Language substantially in form and effect as follows will be sufficient to constitute a waiver of the trustee's obligation to account:

I hereby direct that my trustee(s) shall not be required to file annual accounts with a court as otherwise required by Virginia law.

C. Notwithstanding such a waiver by the decedent, any such adult beneficiary may, at any time during the administration of the trust, demand in a writing delivered to the trustee and to the commissioner of accounts that the trustee settle annually with the commissioner of accounts. Upon notice of such demand to the trustee and the commissioner of accounts, such trustee shall file an account with such commissioner for a period acceptable to the commissioner as though there were no waiver by the testator. The beneficiary making such demand may later revoke his demand by a writing delivered to the trustee and the commissioner of accounts. The demand for settlement of the trustee's account before the commissioner of accounts may also be made by the personal representative of a deceased beneficiary whose estate is a beneficiary, an attorney in fact for a beneficiary, a guardian of an incapacitated beneficiary, a committee of a convict or insane beneficiary, the duly qualified guardian of a minor, or if none exists, a custodial parent of a minor or by any minor who has attained fourteen years of age.

D. Notwithstanding the provisions of this section, any trustee under a will of a decedent probated prior to July 1, 1993, ~~containing the requisite waiver~~ shall be relieved of the duty to file annual accounts with the commissioner of accounts with the written consent of all adult beneficiaries who may be entitled to receive income or principal at the time such written consent is signed. For receiving and filing such written consent, the Commissioner shall be allowed a fee not to exceed twenty-five dollars. *Beneficiaries consenting to a waiver of accounting pursuant to this subsection shall have all applicable rights of accounting and revocation of waiver otherwise available to beneficiaries under a will containing the waiver and probated on or after July 1, 1993.*

E. A court having jurisdiction may order the filing of annual accounts if it deems such filings to be in the best interests of one or more beneficiaries of the trust.

INTRODUCED

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