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HOUSE BILL NO. 1078

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 8, 1996)

(Patron Prior to Substitute—Delegate Dudley)

A BILL to amend and reenact §§ 55-168, 55-170.1, 55-171, 55-172, 55-173, 55-184.1, and 55-190 of the Code of Virginia, relating to escheats law.

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-168, 55-170.1, 55-171, 55-172, 55-173, 55-184.1, and 55-190 of the Code of Virginia are amended and reenacted as follows:

§ 55-168. Appointment of escheators.

The Governor shall appoint one escheator for every city and for every county judicial circuit as set forth in § 17-119.1:1, to serve at the pleasure of the Governor. Such escheator shall reside within a circuit to which he is appointed.

§ 55-170.1. Definition.

As used in this chapter, unless the context otherwise requires:

"Evidence of abandonment" shall include, but not be limited to, the duration of delinquency for real estate taxes or special assessments; unsuccessful efforts by the commissioner of revenue or real estate assessor to communicate with any person listed in his records as owner; and any other evidence which may be relevant to indicate abandonment. Real property on which the treasurer certifies that taxes or special assessments have not been paid for ten years shall be presumed abandoned.

"Knowledge" in terms of a "known owner" shall include inspection of tax records and any other inquiry deemed to be reasonable. It need not include inspection of the premises or inspection of title records in the clerk's office in the county or city in which the land is located.

§ 55-171. Annual report to escheator; lands not liable.

Each treasurer shall, every May, furnish to the escheator of his county or city a list of all lands within his district (i) of which any person shall have died seized of an estate of inheritance (i) intestate and without any known heir, or (ii) to which no person is known by the treasurer to be entitled; or (iii) which appear to have been abandoned testate without disposing of all property by will and without leaving any surviving heir to inherit the property. No land shall be liable to escheat which for fifteen years has been held under adverse possession as at common law by the person claiming the same, or those under whom he holds, but only if taxes were paid throughout that period by the claimant or those under whom he holds.

§ 55-172. Escheator to hold inquest; notice thereof.

On receiving such list, or upon information from any person, in writing and under oath, that any of the conditions described in § 55-171 exists, the escheator shall proceed to hold his inquest to determine whether any land mentioned has escheated to the Commonwealth. He shall give notice of the time of taking such inquest, by advertisement, at the front door of the courthouse, for thirty days, and in a newspaper of general circulation within the county or city once, not more than thirty nor less than seven days, prior to the inquest. Notice shall also be mailed to the last owner of record, if any, as it appears in the tax records of the local treasurer. The escheator shall send a copy of the newspaper advertisement to the State Treasurer prior to the date of inquest. The inquest shall be held the same calendar year as the list or information is received by the escheator. The attorney for the Commonwealth shall act as attorney for this proceeding.

§ 55-173. Jury of inquest, how summoned, etc.; evidence, how given.

For this inquest there shall be summoned and returned by the sheriff of the county or sergeant of the city ten qualified jurors, of whom at least seven shall be impaneled as a jury. They shall meet at the courthouse and sit in public and may be adjourned by the escheator from day to day. Every person competent to testify as a witness shall be required to give evidence openly in the presence of the jurors. The jury shall consider evidence of abandonment as defined in § 55-170.1.

§ 55-184.1. Order of sale by Governor.

Not less than twelve six months after the publication of the escheator's certificate, the State Treasurer shall lay before the Governor the escheator's certificate, and proof of publication, and, if claim has not been made as aforesaid, or, if made, has been decided in favor of the Commonwealth, the Governor shall order the escheated land to be sold upon such terms, at such time, and at such place within the county or city wherein the lands lie as he may think proper. The order of sale shall be delivered to the State Treasurer, to be transmitted to the escheator, who shall proceed to sell according to such order.

§ 55-190. Reports by State Treasurer to the Governor; penalty on escheators for failure of duty.

The State Treasurer shall, every May 1, file a report with the Governor containing the name of any

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60 *escheator who fails to perform any duty required by him of this chapter.* If any escheator ~~fail~~ fails to
61 report to and account with the State Treasurer, or ~~fail~~ fails to pay into the state treasury the proceeds of
62 any sale made by him, or any such rents and profits, in the manner and within the time prescribed by
63 law, he shall be fined ~~not exceeding~~ *no more than* \$200 for every sixty days such failure ~~shall continue~~
64 *continues.* ~~And if~~ *If* any escheator ~~fail~~ fails to perform any other duty required of him by this chapter,
65 for the failure of which no specific penalty is provided, he shall be fined therefor ~~not exceeding~~ *no more*
66 *than* fifty dollars. ~~And any~~ *Any* action or motion for any fine under this chapter may be instituted or
67 made, at the discretion of the State Treasurer, or of the Attorney General, in the Circuit Court of the
68 City of Richmond, after fifteen days' notice, in the case of such motion.
69 **2. That an emergency exists and this act is in force from its passage.**