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HOUSE BILL NO. 526

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Howell
on February 16, 1996)

(Patron Prior to Substitute—Delegate Howell)

A *BILL to amend and reenact §§ 64.1-120 and 64.1-131 of the Code of Virginia, relating to administration of estate; penalty of bond of executor.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 64.1-120 and 64.1-131 of the Code of Virginia are amended and reenacted as follows:

§ 64.1-120. Penalty of bond of executor or administrator.

~~Every~~ A. *Except as provided in subsection B, every* bond of an executor or administrator shall be in a penalty equal, at the least, to the full value of the personal estate of the deceased to be administered; and when there is a will which authorizes the executor or administrator to sell real estate, or receive the rents and profits thereof, the bond shall be in a penalty equal, at the least, to the full value both of the personal estate and of such real estate, or rents and profits, as the case may be.

B. *Upon the request of an executor or administrator, the clerk shall redetermine the penalty of the bond in light of any reduction in the current market value of the estate in the executor's or administrator's possession or subject to his power, whether such reduction is due to disbursements, distributions or valuation of assets, if such reduction is reflected in an accounting that has been confirmed by the court or an inventory that has been approved by the commissioner of accounts and recorded in the clerk's office. This provision shall not apply to any bond set by the court.*

§ 64.1-131. When court may allow another to qualify on estate.

If at any time two months elapse without there being an executor or administrator of the estate of a decedent, except during a contest about the decedent's will or during the infancy or absence of the executor, the court, or the clerk thereof, in which or by whose clerk the will was admitted to record or which has jurisdiction to grant administration on the decedent's estate shall, on the motion of any person, order any person of the county or city to take into his possession the estate of such decedent and administer the same after the fixing and posting of proper bond. *However, any sheriff so ordered may decline the appointment if the appointment interferes with his current duties or obligations.* Thereupon such person shall be the administrator, or administrator de bonis non, of the decedent, with his will annexed, if there be a will, and shall be thenceforward entitled to all the rights and bound to perform all the duties of such administrator. The court may, however, at any time afterwards, on reasonable notice to such person, revoke such order made by it or its clerk and the court may in a proper case after reasonable notice to the parties in interest permit the person to resign and allow any other person to qualify as executor or administrator. When an estate is committed to a person on the motion of a creditor or other person, the state tax due for such administration shall be paid by the party upon whose motion the estate was committed and the same shall be repaid to him by the administrator so appointed out of the first funds received by him for such estate.