

# VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

## CHAPTER 220

*An Act to amend and reenact § 26-46.1 of the Code of Virginia, relating to authority to qualify as a trustee.*

[H 2220]

Approved March 9, 1997

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

**1. That § 26-46.1 of the Code of Virginia is amended and reenacted as follows:**

§ 26-46.1. Authority to qualify trustee; necessity for security; notice of qualification; qualification by less than all of trustees named.

Subject to the provisions of § 26-50, the clerk of any court having the jurisdiction of the probate of wills, or any duly qualified deputy of such clerks, may qualify any trustee named in a will, deed or other writing, and require and take from them the necessary bonds in the same manner and with like effect as the court could do if in session.

Such clerk or deputy pursuant to the provisions of § 26-59, may appoint and qualify *an individual or* a corporation qualified under § 6.1-5 ~~or a person resident in this Commonwealth~~. Appointment may be made in the same manner and subject to the provisions of § 64.1-116.

When the will, deed or other writing directs that a trustee shall not give security, the clerk shall not require it of him, unless on the application of any person interested or from his own knowledge he thinks security ought to be required. This section shall not be construed to require security where necessity therefor is dispensed with pursuant to § 6.1-18 or § 26-46.2 or to affect the present jurisdiction of the court to qualify trustees, and to require security or not, as it sees fit.

Any qualification hereunder may be ex parte, and no prior notice to the beneficiaries shall be required. If less than all the trustees named in such deed, will or other writing desire to qualify, qualification shall be only after reasonable notice to any other named trustees.

If less than all the trustees named in the will, deed or other writing qualify, then the trust powers conferred by the trust instrument shall be exercisable only by the trustees who have qualified hereunder or in any other manner permitted by law.