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HOUSE BILL NO. 344**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice
on February 13, 1998)

(Patrons Prior to Substitute—Delegates Watts and Tate [HB 880])

A BILL to amend and reenact §§ 26-4, 26-12.3, 58.1-1712 and 58.1-1714 of the Code of Virginia, relating to fiduciaries; small estates; estate tax.

Be it enacted by the General Assembly of Virginia:

1. That §§ 26-4, 26-12.3, 58.1-1712 and 58.1-1714 of the Code of Virginia are amended and reenacted as follows:

§ 26-4. When fiduciary may qualify without security.

The several courts in this Commonwealth and the clerks thereof, having jurisdiction to appoint personal representatives, guardians, conservators and committees may, in their discretion, when the amount coming into the hands or possession of the personal representative, guardian of a minor, conservator or committee does not exceed \$5,000~~10,000~~, allow any such personal representative, guardian, conservator or committee to qualify by giving bond without surety. Any personal representative or trustee serving jointly with a bank or trust company exempted from giving surety on its bond as such under § 6.1-18 shall, unless the court shall otherwise direct, be likewise exempt.

§ 26-12.3. Waiver of inventory and settlement for certain estates.

When an estate does not exceed \$5,000~~10,000~~ in value, and an heir, beneficiary or creditor whose claim exceeds the value of the estate seeks qualification, the clerk shall waive inventory under § 26-12 and settlement under § 26-17.

§ 58.1-1712. Levy; rate of tax.

A tax is hereby imposed on the probate of every will or grant of administration not exempt by law. The tax shall be based on the value of the estate as determined in § 58.1-1713. For every \$100 of value, or fraction of \$100, a tax of 10¢ is imposed. However, the tax imposed by this section shall not apply to decedents' estates of \$5,000~~10,000~~ or less in value.

§ 58.1-1714. Filing of return.

When the value of an estate exceeds \$5,000~~10,000~~, a return shall be made and filed with the clerk of court at the time the will is offered for probate or the grant of administration is sought in such court. Such return shall state, to the best of the knowledge and belief of the persons submitting the will for probate or requesting the grant of administration, (i) the value of the decedent's real estate as set forth in § 58.1-1713 based on the actual value, if known, or if actual value is not known, the appraised value of such property for local real estate tax purposes, and (ii) the estimated value of the decedent's personal property as of the date of the decedent's death. Such return shall be subject to the provisions of § 58.1-11, and the information set forth therein shall be entitled to the privilege accorded by § 58.1-3. For the purpose of § 58.1-3, the information set forth in such return shall not be deemed to be required by law to be entered on any public assessment roll or book.