

988351837

**HOUSE BILL NO. 880**

Offered January 26, 1998

*A BILL to amend and reenact §§ 26-4, 26-12.3, 58.1-1712, 58.1-1713 and 58.1-1714 of the Code of Virginia, relating to fiduciaries; small estates; estate tax.*

Patrons—Tate, Almand and Bennett

Referred to Committee for Courts of Justice

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

**1. That §§ 26-4, 26-12.3, 58.1-1712, 58.1-1713 and 58.1-17.14 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.

§ 58.1-1713. Value of the estate; time of valuation.

A. The tax imposed by this article shall be based upon the value of all property, real and personal, within the jurisdiction of the Commonwealth, which shall pass from the decedent to each beneficiary by will or intestacy. The value of all real estate shall be included although the real estate does not come into the control or possession of the personal representative for intestate administration purposes and whether or not the personal representative under a will is charged with any duty with respect to such real estate. However, in no event shall the value of real estate owned by the decedent and situated outside of the Commonwealth be considered in computing the value of the estate.

B. The value of the estate shall be determined at the time of death of the decedent, ~~or if an alternate time of valuation has been chosen under § 2032 of the Internal Revenue Code for purposes of federal taxation, at such time.~~

§ 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.