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## HOUSE BILL NO. 961

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice  
on February 14, 1998)

(Patron Prior to Substitute—Delegate Robinson)

*A BILL to amend and reenact § 8.01-383.1 of the Code of Virginia, relating to revision of civil verdict.*

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

**1. That § 8.01-383.1 of the Code of Virginia is amended and reenacted as follows:**

§ 8.01-383.1. Appeal when verdict reduced and accepted under protest; new trial for inadequate damages.

A. In any action at law in which the trial court shall require a plaintiff to remit a part of his recovery, as ascertained by the verdict of a jury, or else submit to a new trial, such plaintiff may remit and accept judgment of the court thereon for the reduced sum under protest, but, notwithstanding such remittitur and acceptance, if under protest, the judgment of the court in requiring him to remit may be reviewed by the Supreme Court upon an appeal awarded the plaintiff as in other actions at law; and in any such case in which an appeal is awarded the defendant, the judgment of the court in requiring such remittitur may be the subject of review by the Supreme Court, regardless of the amount. *when the court finds as a matter of law that the damages awarded by the jury are excessive, the trial court may (i) award a new trial or (ii) require a plaintiff to remit a part of his recovery, as ascertained by the verdict of a jury. If either the plaintiff or the defendant declines to accept such reduced award, the trial court shall award a new trial.*

*If, pursuant to this subsection, remittitur is accepted by either party under protest, it may be reviewed on appeal.*

B. In any action at law when the court finds as a matter of law that the damages awarded by the jury are inadequate, the trial court may (i) award a new trial or (ii) ~~either~~ require the defendant to pay an amount in excess of the recovery of the plaintiff found in the verdict ~~or submit to a new trial. If either the plaintiff or the defendant declines to accept such additional award, the trial court shall award a new trial.~~

If additur pursuant to this subsection is accepted by either party under protest, it may be reviewed on appeal.