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SENATE BILL NO. 540

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on March 5, 1998)

(Patron Prior to Substitute—Senator Hanger)

*A BILL to amend and reenact §§ 16.1-69.25:1, 16.1-77, 16.1-88.01, 16.1-92, and 16.1-122 of the Code of Virginia, relating to jurisdictional limits of the district court in civil cases.***Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-69.25:1, 16.1-77, 16.1-88.01, 16.1-92, and 16.1-122 of the Code of Virginia are amended and reenacted as follows:**

§ 16.1-69.25:1. Judge shall order bill of particulars; time for motion.

A Upon request of either party, a judge of a district court may direct the filing of a written bill of particulars at any time before trial and within a period of time specified in the order so requiring. Motions for bills of particulars in criminal cases before general district courts shall be made before a plea is entered and at least seven days before the day fixed for trial.

§ 16.1-77. Civil jurisdiction of general district courts.

Except as provided in Article 5 (§ 16.1-122.1 et seq.) of this chapter, each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person, which would be recoverable by action at law or suit in equity, when the amount of such claim does not exceed \$1,000 3,000 exclusive of interest and any attorney's fees contracted for in the instrument, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$1,000 3,000 but does not exceed \$15,000, exclusive of interest and any attorney's fees contracted for in the instrument. However, this \$15,000 limit shall not apply with respect to distress warrants under the provisions of § 55-230.

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed \$15,000 exclusive of interest and any attorney's fees contracted for in the instrument.

(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 13 (§ 55-217 et seq.) of Title 55, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim for damages sustained or rent proved to be owing where the premises were used by the occupant primarily for business, commercial or agricultural purposes.

(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code of Virginia.

(5) Jurisdiction to try and decide suits in interpleader involving personal property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment or by warrant in debt. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.

(6) Jurisdiction to try and decide any cases pursuant to § 2.1-346 of the Virginia Freedom of Information Act (§ 2.1-340 et seq.), for writs of mandamus or for injunctions.

(7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate habitual offenders pursuant to the provisions of Article 9 (§ 46.2-351 et seq.) of Chapter 3 of Title 46.2.

§ 16.1-88.01. Counterclaims.

In any proceeding before any general district court a defendant may, at his option, at any time before trial, plead in writing as a counterclaim, any cause of action at law for a money judgment in personam, or any matter which would entitle him to relief in equity in the nature of damages, that he has against the plaintiff or all plaintiffs jointly, whether or not it grows out of any transaction mentioned in the warrant or notice of motion for judgment, whether or not it is for liquidated damages, whether or not it is in tort or contract, and whether or not the amount demanded exceeds the amount claimed by the plaintiff in the warrant or notice of motion for judgment; ~~provided, however, that~~ no such counterclaim shall be filed or heard when the amount claimed therein exceeds the amount within the jurisdiction of such court.Upon the request of ~~the respective parties~~ either party, bills of particulars and grounds of defense

60 may be ordered in the discretion of the general district court, to insure ensure a fair trial on the merits
61 of the issue presented. The court may, in its discretion, hear the counterclaim together with the original
62 case, or may order and hold a separate hearing of any cause of action asserted in a counterclaim. In
63 either event, the court shall render such final judgment on the whole case as the law and the evidence
64 require.

65 § 16.1-92. Removal of action involving more than \$3,000.

66 When the amount in controversy in any action at law except cases of unlawful entry and detainer in
67 a general district court exceeds the sum of ~~\$1,000~~ 3,000, exclusive of interest, attorney's fees contracted
68 for in the instrument, and costs, the judge shall, at any time on or before the return day of the process,
69 or within ten days after such return day, if trial of the case has not commenced and if judgment has not
70 been rendered, upon the application of any defendant, the filing by him of an affidavit of himself, his
71 agent or attorney, that he has a substantial defense to the action, which affidavit shall state the grounds
72 of such defense, and the payment by him of the costs accrued to the time of removal, the writ tax as
73 fixed by law, and the costs in the court to which it is removed as fixed by subdivision (17) of
74 § 14.1-112, remove the action and all the papers thereof to a court having jurisdiction of appeals from
75 the court wherein the action was brought; and the clerk if there be one, or the judge if there be no clerk
76 of the court, shall promptly transmit the papers in the case and the writ tax and costs to the clerk of the
77 court to which the action is removed. If the defendant fails to pay the accrued costs, writ tax, and the
78 costs in the court to which the case is removed at the time the application for removal is filed, the judge
79 shall proceed to try the case.

80 On the trial of the case in the circuit court the proceedings shall conform as nearly as may be to
81 proceedings prescribed by the Rules of Court for other actions at law, but the court may permit all
82 necessary amendments, including amendments to increase the amount of the claim above the
83 jurisdictional amount set forth in § 16.1-77, enter such orders, and direct such proceedings as may be
84 necessary or proper to correct any defects, irregularities and omissions in the pleadings and bring about
85 a trial of the merits of the controversy.

86 In no event shall an objection to venue be considered by the circuit court unless raised by a
87 defendant in his affidavit of substantial defense filed in the general district court.

88 *The limits for removal of cases under the Tort Claims Act (§ 8.01-195 et seq.) shall be governed by*
89 *the jurisdictional amounts set forth in that act.*

90 § 16.1-122. Removal or appeal.

91 If the money or property claimed in any such proceeding is more than ~~\$1,000~~ \$3,000 in value, the
92 proceeding may be removed to a circuit court and heard and disposed of therein as provided in
93 § 16.1-92. If the property or money claimed in any such proceeding is more than fifty dollars in value,
94 an appeal of right may be had to the judgment or order of the court as provided in § 16.1-106. *The*
95 *limits for removal of cases under the Tort Claims Act (§ 8.01-195 et seq.) shall be governed by the*
96 *jurisdictional amounts set forth in that act.*