

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 378

An Act to amend and reenact §§ 26-17.4, 26-18, 26-19 and 26-20 of the Code of Virginia, relating to fiduciaries; accounts.

[H 2146]

Approved March 24, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 26-17.4, 26-18, 26-19 and 26-20 of the Code of Virginia are amended and reenacted as follows:

§ 26-17.4. Conservators, guardians of minors' estates, committees, trustees under § 37.1-134.20 and receivers under § 55-44.

A. Within six months from the date of the qualification, conservators, *guardians of minors' estates*, committees, trustees under § 37.1-134.20 and receivers under § 55-44 shall exhibit before the commissioner of accounts a statement of all money and other property which such fiduciary has received, or become chargeable with, or has disbursed within four months from the date of qualification.

B. After the first account of the fiduciary has been filed and settled, the second and subsequent accounts for each succeeding twelve-month period will be due within four months from the last day of the twelve-month period commencing on the terminal date of the preceding account unless the commissioner of accounts extends the period for filing upon reasonable cause.

C. For fiduciaries acting on behalf of Medicaid recipients, the fees charged by the commissioners of accounts under subsection A or B shall not exceed twenty-five dollars.

§ 26-18. Failure to account; enforcement.

If any such fiduciary *required to account* fails to make a complete and proper account as ~~required by § 26-17.3~~ *within the time allowed*, the commissioner ~~and the court shall proceed against him in like manner, and the court shall impose the same penalty, unless such fiduciary is excused for sufficient reason, as is herein provided in cases in which fiduciaries fail to return inventories of their respective estates. Every commissioner shall either (i) proceed against each such fiduciary by summons and report to the court as provided by § 26-13; or (ii) file with his the court or judge, and a duplicate in the clerk's office, in the months of April and October, and with the clerk at such times as the court shall order, but not less than twice a year, a list of all fiduciaries who have failed to make a complete and proper account within three months of the date required the time allowed, excepting those whom the commissioner has granted additional time.~~ Upon the filing of this list the clerk shall issue a summons against each fiduciary shown thereon returnable to the first day of the next term of court and the court shall take action against such fiduciary in accordance with § 26-13 for failure to file inventories.

Every commissioner shall file with the court and with the clerk at such times as the court shall order, but not less than quarterly, a list of all fiduciaries whose accounts for any reason have been before the commissioner for more than five months. The commissioner shall note on such list the fiduciaries who are deemed delinquent.

Whenever the commissioner reports to the court that a fiduciary, who is an attorney-at-law licensed to practice in the Commonwealth, has failed to make the required settlement within thirty days after the date of service of a summons, the commissioner shall also mail a copy of his report to the Virginia State Bar.

§ 26-19. When fiduciaries to forfeit their commission, etc.

If any such fiduciary wholly fail to lay before such commissioner a statement of all matters required in ~~§ 26-17~~ § 26-17.3 together with all other statements and items therein required for any year, within four months after its expiration, and, though a statement be laid before the commissioner, yet if the fiduciary be found chargeable for that year with any money or other property, not embraced in the statement, he shall have no compensation for his services during such year, nor commission on such money or other property unless allowed by the commissioner for good cause shown; the commissioner's action in such case shall be subject to review by the court on exceptions by any interested person. This section shall not apply to a case in which a fiduciary has laid a statement of his accounts within such year before a commissioner in chancery who in a pending suit has been ordered to settle his account.

§ 26-20. Exhibition of accounts when sum does not exceed certain amount.

If the principal sum held by any fiduciary mentioned in ~~§ 26-17~~ § 26-17.3 does not exceed \$10,000, such fiduciary shall exhibit his accounts before the commissioner within 4 *four* months after the expiration of ~~1~~ *one* year from the date of the order conferring his authority as provided in ~~§ 26-17~~ § 26-17.3, but thereafter the commissioner of accounts may permit the fiduciary to exhibit his accounts every ~~3~~ *three* years, which permission may be revoked by the commissioner on his own motion or upon request of any interested person. The provisions of this section shall apply to any case in which the

corpus of the estate in the hands of the fiduciary has been reduced to \$10,000 or less although it formerly exceeded that amount. Any fiduciary exhibiting his accounts in accordance with the provisions of this section shall be entitled to compensation for his services.