

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 64.1-57.1 of the Code of Virginia, relating to the grant of powers to a*  
3 *personal representative or trustee by a circuit court.*

4 [H 1998]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 64.1-57.1 of the Code of Virginia is amended and reenacted as follows:**

8 § 64.1-57.1. Grant of such powers to personal representative or trustee by circuit court.

9 Upon motion of a personal representative or trustee ~~to the circuit court in which he is qualified~~, such  
10 a circuit court may grant to the sole personal representative or trustee, if there is only one, or to all the  
11 personal representatives or trustees, if there is more than one, all or a part of such powers as may be  
12 incorporated by reference pursuant to § 64.1-57. As used in this section, the terms "personal  
13 representative" or "trustee" shall include the plural of such terms unless the context requires otherwise  
14 and the former term shall encompass within its meaning the administrator of an intestate decedent's  
15 estate. If there is more than one personal representative or trustee, the court may specify as to whether  
16 the consent of all personal representatives or trustees or a majority thereof shall be required, and in  
17 absence of such specification, the consent of all such personal representatives or trustees to such act  
18 shall be required.

19 *Such motion shall be filed in the circuit court in which the personal representative or trustee*  
20 *qualified, or if there was no qualification, the circuit court for the jurisdiction in which the grantor*  
21 *resides or resided at the time of his death, a trustee resides or a corporate trustee has an office.* Such  
22 motion may be ex parte; however, the court, in its discretion, may require such notice to and the  
23 convening of interested parties as it may deem proper in each case. Notwithstanding the granting of or  
24 the failure to grant such powers, the court shall have continuing jurisdiction to confer powers in addition  
25 to those previously granted or to revoke any or all such powers previously granted by the court. Such  
26 additional grant or revocation may also be ex parte.

27 The court may, in granting or withholding such powers, take into consideration whether the personal  
28 representative or trustee was nominated by the decedent, *the grantor* or ~~by~~ the beneficiaries; the number  
29 and capacity of the beneficiaries and their ability or inability to consent to the acts of the personal  
30 representative or trustee which are otherwise within the scope of § 64.1-57; the relationship of the  
31 personal representative or trustee to the beneficiaries; the character of the estate to be administered,  
32 including any real estate which would be within the scope of the powers granted by the provisions of  
33 § 64.1-57; and the capacity of the personal representative or trustee to perform under the powers  
34 conferred and to answer for any acts for which he might be held accountable under his bond.

35 The court, in its discretion, may attach further conditions to such grant of power in any manner  
36 which it shall deem necessary and proper.

37 In no case shall any power or powers be granted hereunder by any court, if the grant of such power  
38 or powers would be contrary to the intention of the testator *or grantor* as implied from or as expressed  
39 in the will or would otherwise be inconsistent with the disposition therein made.

40 As used in this section, the word "trustee" shall refer to a trustee under a probated will or an inter  
41 vivos trust *instrument*.

ENROLLED

HB1998ER