

1999 SESSION

INTRODUCED

990436296

HOUSE BILL NO. 2002

Offered January 19, 1999

A *BILL to amend the Code of Virginia by adding a section numbered 26-1.3, relating to a prohibition against certain persons serving as fiduciaries; penalties.*

Patrons—Howell, Clement, McClure and Murphy

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 26-1.3 as follows:

§ 26-1.3. Prohibition of certain persons serving as fiduciary.

A. Any attorney whose license is suspended for more than ninety days or revoked due to a violation of a disciplinary rule, or surrenders his license during the course of a disciplinary investigation, shall be prohibited during such unlicensed period from serving as a fiduciary for any party for whom the attorney, or anyone associated with or employed by the attorney, has prepared the document that nominates the attorney as a fiduciary. This provision shall not apply if the attorney is a fiduciary for his spouse or if the attorney is the sole beneficiary of the estate or trust.

B. The circuit court for the city or county in which the attorney resides may grant the attorney, upon good cause shown, leave to continue to serve as the fiduciary. An attorney who does not, within thirty days of the loss of his license or the assumption of his fiduciary duties, whichever is later, either resign or petition the circuit court for leave to continue as the fiduciary, shall be guilty of a Class 2 misdemeanor. If a petition is denied by the circuit court, an attorney who does not resign as the fiduciary within thirty days of the order denying the leave to continue as the fiduciary, shall be guilty of a Class 2 misdemeanor.

C. The foregoing prohibition shall not affect the validity of action taken or omitted by an attorney serving as fiduciary as respects any person who does not have actual knowledge of the prohibition of the attorney serving as a fiduciary.

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