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HOUSE BILL NO. 2215

Offered January 21, 1999

A BILL amend and reenact §§ 8.01-670 and 17.1-405 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 8.01-670.1, relating to appeal of interlocutory orders.

Patrons—Davies and Almand

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-670 and 17.1-405 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 8.01-670.1 as follows:

§ 8.01-670. In what cases awarded.

A. Except as provided by § 17-116.05, any person may present a petition for an appeal to the Supreme Court if he believes himself aggrieved:

1. By any judgment in a controversy concerning:

a. The title to or boundaries of land,

b. The condemnation of property,

c. The probate of a will,

d. The appointment or qualification of a personal representative, guardian, conservator, committee, or curator,

e. A mill, roadway, ferry, wharf, or landing,

f. The right of the Commonwealth, or a county, or municipal corporation to levy tolls or taxes, or

g. The construction of any statute, ordinance, or county proceeding imposing taxes; or

2. By the order of a court refusing a writ of quo warranto or by the final judgment on any such writ; or

3. By a final judgment in any other civil case.

B. Except as provided by § 17-116.05, any party may present a petition for an appeal to the Supreme Court in any case in chancery wherein there is an interlocutory decree or order:

1. Granting, dissolving or denying an injunction; or

2. Requiring money to be paid or the possession or title of property to be changed; or

3. Adjudicating the principles of a cause.

C. Except in cases where appeal from a final judgment lies in the Court of Appeals, as provided in § 17.1-405, any party may present a petition pursuant to § 8.01-670.1 for appeal to the Supreme Court.

§ 8.01-670.1. Appeal of interlocutory orders and decrees by permission.

A. When the circuit court has entered in any civil action an order or decree that is not otherwise appealable, a party may file in the circuit court a statement of the reasons why an immediate interlocutory appeal should be permitted, including a concise analysis of the statutes, rules or cases believed to be determinate of the issues, and request that the judge or chancellor certify in writing:

1. Whether the order or decree involves a controlling question of law as to which there is substantial ground for difference of opinion and whether an immediate appeal from the order may materially advance the ultimate termination of the litigation; and

2. Whether an immediate appeal of the order or decree is needed in order to (i) avoid irreparable injury, (ii) prevent needless, expensive or protracted litigation, (iii) obtain appellate guidance in an area of new or uncertain law, (iv) simplify the remaining issues, (v) prevent impairment of a legal right, (vi) avoid undue delay, hardship or expense, (vii) obtain rulings upon issues that might otherwise evade appellate review, (viii) serve the public interest or (ix) decide, modify or clarify an issue of general importance in the administration of justice.

B. Within ten days after the entry or denial of a certification under subsection A, a petition for appeal may be filed with the appellate court that would have jurisdiction in an appeal from a final judgment in the proceeding. The Supreme Court or Court of Appeals, in its discretion, may permit an appeal to be taken from the interlocutory order or decree if it finds that any of the factors set forth in subsection A warrant an immediate appeal. Application for an appeal pursuant to this section, and any appeal the appellate court may authorize, shall not stay proceedings in the circuit court unless the circuit court or appellate court shall so order.

§ 17.1-405. Appellate jurisdiction - Administrative agency, Virginia Workers' Compensation Commission, and domestic relations appeals.

Any aggrieved party may appeal to the Court of Appeals from:

1. Any final decision of a circuit court on appeal from a decision of an administrative agency;

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- 60 2. Any final decision of the Virginia Workers' Compensation Commission;
61 3. Any final judgment, order, or decree of a circuit court involving:
62 a. Affirmance or annulment of a marriage;
63 b. Divorce;
64 c. Custody;
65 d. Spousal or child support;
66 e. The control or disposition of a child;
67 f. Any other domestic relations matter arising under Title 16.1 or Title 20; or
68 g. Adoption under Chapter 11 (§ 63.1-220 et seq.) of Title 63.1;
69 4. Any interlocutory decree or order entered in any of the cases listed in this section (i) granting,
70 dissolving, or denying an injunction or (ii) adjudicating the principles of a cause-;
71 5. *Any interlocutory decree or order reviewable under the provisions of § 8.01-670.1 in any case in*
72 *which appeal from a final judgment would be to the Court of Appeals.*