

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 64.1-45.2, relating to*
3 *incorporation by reference; letter of instruction or memorandum into a will, power of attorney or*
4 *trust instrument.*

5 [H 2128]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That the Code of Virginia is amended by adding a section numbered 64.1-45.2 as follows:**9 *§ 64.1-45.2. Incorporation by reference; letter of instruction or memorandum into a will, power of*
10 *attorney or trust instrument.*11 *A. The following original documents may be incorporated by reference into a will, power of attorney*
12 *or trust instrument:*13 *1. A letter or memorandum to the fiduciary or agent as to the interpretation of discretionary powers*
14 *of distribution where the will, power of attorney or trust instrument provides the fiduciary or agent the*
15 *power to make distributions to beneficiaries in the discretion of the fiduciary or agent; and*16 *2. A letter or memorandum stating the views or directions of the maker of the will, power of attorney*
17 *or trust instrument as to the exercise of discretion by the fiduciary or agent in making health care*
18 *decisions for the maker.*19 *B. No provision in the original document sought to be incorporated by reference under this section*
20 *that contradicts or is inconsistent with a provision of the incorporating will, power of attorney or trust*
21 *instrument shall be enforced.*22 *C. This section shall not prevent the incorporation by reference of any writing into any other writing*
23 *that would otherwise be effective under § 64.1-45.1 or under any other law of incorporation by*
24 *reference.*25 *D. The documents referenced in subsection A shall be signed and notarized, and may be prepared*
26 *before or after the execution of the will, power of attorney or trust instrument.*

ENROLLED

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