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HOUSE BILL NO. 521

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact § 8.01-367 of the Code of Virginia, relating to indemnifying bonds; not required of Commonwealth.

Patron—Farrell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 8.01-367 of the Code of Virginia is amended and reenacted as follows:**

§ 8.01-367. Indemnifying bond to officer.

A. If any officer levies or is required to levy a fieri facias, an attachment, or a warrant of distress on property, and the officer doubts whether such property is liable to such levy, he may give the plaintiff, his agent or attorney-at-law, notice that an indemnifying bond is required in the case; bond may thereupon be given by any person, with good security, payable to the officer in a penalty equal to the value of the property in the case of a fieri facias or a warrant of distress on property and equal to double the value of the property in case of an attachment, with condition to indemnify him against all damage which he may sustain in consequence of the seizure or sale of such property and to pay to any claimant of such property all damage which he may sustain in consequence of such seizure or sale, and also to warrant and defend to any purchaser of the property such estate or interest therein as is sold. If the officer has performed more than one levy for a single plaintiff, the officer may permit the plaintiff to give a single indemnifying bond for such levies, provided that any such bond shall be in a penalty amount not less than the aggregate sum of the penalty amounts of the bonds required had the levies been bonded individually.

Provided, however, that when the property claimed to be liable by virtue of the process aforesaid is in the possession of any of the parties against whom such process was issued but is claimed by any other person or is claimed to belong to any other person, the officer having such process in his hands to be executed shall proceed to execute the same notwithstanding such claim unless the claimant of the property or someone for him shall give a suspending bond as provided by § 8.01-370 and shall within 30 days after such bond is given proceed to have the title to the property settled in accordance with the provisions of this chapter. And in case such claimant or someone for him fails to give such suspending bond, or having given such bond fails to have such proceedings instituted to settle the title thereto, the claimant shall be barred from asserting such claim to the property and the officer shall proceed to execute the process, and the officer who executes such process shall not be liable to any such claimant for any damages resulting from the proper execution of such process as is required by this section. If an indemnifying bond is not given within a reasonable time after such notice, the officer may refuse to levy on such property, or may restore it to the person from whose possession it was taken. If such bond is given, the officer shall proceed to levy (i) if he has not already done so, or (ii) if necessary to restore a levy previously released.

B. *The Commonwealth shall not be required to give an indemnifying bond under the provisions of this section.*

INTRODUCED

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