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SENATE BILL NO. 164

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL to amend and reenact § 55-82.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 55-82.2, relating to fraudulent and voluntary conveyances.*

Patron—Petersen

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 55-82.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 55-82.2 as follows:

§ 55-82.1. Creditor's suits; attorney fees.

In any suit brought by a creditor pursuant to § 55-80, 55-81, or 55-82 where a (i) gift; (ii) deed; (iii) conveyance, assignment, or transfer of or charge upon the estate of a debtor; (iv) suit commenced or decree, judgment, or execution suffered or obtained; or (v) bond or other writing is declared void, the court shall award counsel for the creditor reasonable attorney fees against the debtor. *Upon a finding of fraudulent conveyance pursuant to § 55-80, the court may assess sanctions, including such attorney fees, against all parties who knowingly participated in the conveyance.* Should there be a resulting judicial sale, any award of attorney fees shall be paid out of the proceeds of the sale, as other costs are paid, provided the award of attorney fees does not affect a prior lien creditor not represented by the attorney.

§ 55-82.2. *Authority of court to set aside.*

The court shall have the authority to set aside a fraudulent conveyance or voluntary transfer pursuant to § 55-80 or 55-81 during an action brought by a creditor to execute on a judgment, either on motion of the creditor or on its own motion, provided that all parties who have an interest in the property subject to the conveyance are given notice of the proceeding. The court, by order, may direct the clerk to issue the proper process against such parties, and, upon the maturing of the case as to them, proceed to make such orders or decrees as would have been proper if the new parties had been made parties at the commencement of the suit.

INTRODUCED

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