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SENATE BILL NO. 416

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 23, 2012)

(Patron Prior to Substitute—Senator Stanley)

A BILL to amend and reenact § 8.01-435 of the Code of Virginia, relating to confessions of judgment by a substitute attorney-in-fact.

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-435 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-435. Who may confess judgment.

Confession of judgment under the provisions of § 8.01-432 may be made either by the debtor himself or by his duly constituted attorney-in-fact, acting under and by virtue of a power of attorney duly executed and acknowledged by him as deeds are required to be acknowledged, before any officer or person authorized to take acknowledgments of writings to be recorded in this Commonwealth, provided, however, that any power of attorney incorporated in, and made part of, any note or bond authorizing the confession of judgment thereon against the makers and endorsers in the event of default in the payment thereof at maturity need not be acknowledged, but shall specifically name therein the attorney or attorneys or other person or persons authorized to confess such judgment and the clerk's office in which the judgment is to be confessed.

The payee, obligee, or person otherwise entitled to payment under any note or bond may appoint a substitute for any attorney-in-fact authorized to confess judgment that is specifically named in such note or bond, by specifically naming the substitute attorney-in-fact in an instrument appointing the substitute attorney-in-fact. Such instrument shall be recorded and indexed according to law in the clerk's office where judgment is to be confessed by the terms of such note or bond, and a clerk's fee for such recording shall be paid as set out in § 17.1-275. If such note or bond does not contain a notice informing the debtor that a substitute attorney-in-fact may be appointed by the payee, obligee, or person otherwise entitled to payment under the note or bond, then within 10 days after the instrument appointing the substitute attorney-in-fact is recorded, the person appointing the substitute attorney-in-fact shall send notice of the appointment by certified mail to the debtor's last known address as it appears in the records of the person appointing the substitute attorney-in-fact.

SENATE SUBSTITUTE

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