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SENATE BILL NO. 1067

Offered January 14, 2015

Prefiled January 13, 2015

A *BILL to amend and reenact § 8.01-537 of the Code of Virginia, relating to petition for attachment.*

Patron—Obenshain

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 8.01-537 of the Code of Virginia is amended and reenacted as follows:****§ 8.01-537. Petition for attachment; costs, fees and taxes.**

A. Every attachment shall be commenced by a petition filed before a judge or clerk of a circuit or general district court of, or magistrate serving, the county or city in which venue is given by subdivision 11 of § 8.01-261. If it is sought to recover specific personal property, the petition shall state (i) the kind, quantity, and estimated fair market value thereof, (ii) the character of estate therein claimed by the plaintiff, (iii) the plaintiff's claim with such certainty as will give the adverse party reasonable notice of the true nature of the claim and the particulars thereof and (iv) what sum, if any, the plaintiff claims he is entitled to recover for its detention. If it is sought to recover a debt or damages for a breach of contract, express or implied, or damages for a wrong, the petition shall set forth (i) the plaintiff's claim with such certainty as will give the adverse party reasonable notice of the true nature of the claim and the particulars thereof, (ii) a sum certain which, at the least, the plaintiff is entitled to, or ought to recover, and (iii) if based on a contract and if the claim is for a debt not then due and payable, at what time or times the same will become due and payable. The petition shall also allege the existence of one or more of the grounds mentioned in § 8.01-534, and shall set forth specific facts in support of the allegation. The petition shall ask for an attachment against the specific personal property mentioned in the petition, or against the estate, real and personal, of one or more of the principal defendants, or against the estate, real and personal, of one or more of the principal defendants, or against both the specific personal property and the estate of such defendants, real or personal. The petition shall state whether the officer is requested to take possession of the attached tangible personal property. The petition shall be sworn to by the plaintiff or his the plaintiff's agent, or some other person cognizant of the facts therein stated.

B. The plaintiff praying for an attachment shall, at the time that he files his the petition is filed, pay to the magistrate or clerk of the court to which the return is made the proper costs, fees and taxes, and in the event of his failure the plaintiff fails to do so, the attachment shall not be issued.

INTRODUCED

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