

18104372D

## HOUSE BILL NO. 728

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend and reenact § 8.01-324 of the Code of Virginia, relating to newspapers; legal notices and publications; requirements.*

\_\_\_\_\_  
Patron—Head

\_\_\_\_\_  
Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That § 8.01-324 of the Code of Virginia is amended and reenacted as follows:****§ 8.01-324. Newspapers that may be used for legal notices and publications.**

A. Whenever any ordinance, resolution, notice, or advertisement is required by law to be published in a newspaper, such newspaper, in addition to any qualifications otherwise required by law, shall:

1. Have a bona fide list of paying subscribers;

2. Have been published and circulated at least once a week for ~~twenty-four consecutive weeks without interruption~~ at least 50 of the preceding 52 weeks for the dissemination of news of a general or legal character;

3. Have a general circulation in *and news coverage of* the area in which the notice is required to be published. *As used in this section, "general circulation" means having a list of paying or requesting subscribers that is equal to or greater than five percent of the area's households;*

4. Be printed in the English language; and

5. Have a second-class mailing permit issued by the United States Postal Service (USPS), *publish the USPS Statement of Ownership (Form 3526) in such newspaper at least once per calendar year, and maintain a copy of such form that is available for public inspection during the regular business hours of such newspaper.*

B. However, a newspaper ~~which~~ that does not have a second-class mailing permit, *or does not meet the general circulation and news coverage requirement*, may petition the circuit court for the jurisdiction in which ~~the newspaper is located~~ *such ordinances, resolutions, notices, or advertisements are to be published* for authority to publish *such* ordinances, resolutions, notices, or advertisements. Prior to filing the petition, the newspaper shall publish a notice of intention to file a petition pursuant to this section in a newspaper published or having general circulation in the jurisdiction in which the petition will be filed. The court shall grant the authority for a period of one year upon finding that the newspaper (i) meets the requirements of subdivisions A ~~2~~, *A 1* and 3; *and A 4*; (ii) ~~has been continually published for at least one year~~, employs a full-time news staff, reports local current events and governmental meetings, has an editorial page, accepts letters to the editor, and is, in general, a news forum for the community in which it is ~~circulated~~ *authority is sought*; (iii) has a circulation within the community ~~to which the publication is directed for which authority is sought~~ and maintains permanent records of the fact and substance of the publication; and (iv) has an audit of circulation *for a time period ending no more than 24 months prior to the filing of such petition* certified by an independent auditing firm or a business recognized in the newspaper industry as a circulation auditor. *Such audit shall provide a breakdown of such newspaper's distribution by zip code.* The authority shall be continued for successive one-year periods upon the filing of a copy of such newspaper's most recent audit of circulation and an affidavit certifying that the newspaper continues to meet the requirements of this subsection.

C. If a county with a population of less than 15,000 had regularly advertised its ordinances, resolutions, *or* notices in a newspaper published in the county ~~which~~ that had a general circulation in the county, a bona fide list of paying subscribers, a ~~second class~~ *second-class* mailing permit, and the newspaper continued to be published in the county and continued to have a general circulation in the county but failed to maintain its bona fide list of paying subscribers and its ~~second class~~ *second-class* mailing permit, any advertisement of ordinances, resolutions, *or* notices in the newspaper by the county shall be deemed to have been in compliance with this section.

D. *If a locality determines that no newspaper published in such locality meets the requirements of subsection A or B, such locality may petition the circuit court for the jurisdiction in which such ordinances, resolutions, notices, or advertisements are to be published for authority to have such ordinances, resolutions, notices, or advertisements published in another newspaper. No such petition shall be filed without a majority vote of approval by such locality's local governing body. The court shall grant such authority for good cause shown. Such authority shall be granted for one year and may be continued for successive one-year periods for good cause shown.*

INTRODUCED

HB728

59     *E. Any newspaper authorized by this section to publish ordinances, resolutions, notices, or*  
60     *advertisements shall additionally (i) publish and make available to the public on a searchable,*  
61     *statewide, online database such ordinances, resolutions, notices, or advertisements; (ii) maintain at least*  
62     *three years' worth of print archives of such newspaper containing any such ordinance, resolution,*  
63     *notice, or advertisement and make such archives available to the public for inspection upon request;*  
64     *and (iii) publish such ordinances, resolutions, notices, or advertisements in a prominent location in such*  
65     *newspaper with an identifying heading printed in boldface letters no smaller than 24-point type.*