

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend and reenact § 64.2-601 of the Code of Virginia, relating to payment or delivery of
3 small asset by affidavit; check, draft, or other negotiable instrument; financial institution.

4 [S 1186]
5 Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 64.2-601 of the Code of Virginia is amended and reenacted as follows:**

8 **§ 64.2-601. Payment or delivery of small asset by affidavit.**

9 A. Any person having possession of a small asset shall pay or deliver the small asset to the
10 designated successor of the decedent upon being presented an affidavit made by all of the known
11 successors stating:

12 1. That the value of the decedent's entire personal probate estate as of the date of the decedent's
13 death, wherever located, does not exceed \$50,000;

14 2. That at least 60 days have elapsed since the decedent's death;

15 3. That no application for the appointment of a personal representative is pending or has been
16 granted in any jurisdiction;

17 4. That the decedent's will, if any, was duly probated;

18 5. That the claiming successor is entitled to payment or delivery of the small asset, and the basis
19 upon which such entitlement is claimed;

20 6. The names and addresses of all successors, to the extent known;

21 7. The name of each successor designated to receive payment or delivery of the small asset on behalf
22 of all successors; and

23 8. That the designated successor shall have a fiduciary duty to safeguard and promptly pay or deliver
24 the small asset as required by the laws of the Commonwealth.

25 B. The designated successor may discharge his fiduciary duty to promptly pay or deliver the small
26 asset to a successor who is, or is reasonably believed to be, incapacitated or under a legal disability, by
27 paying or delivering the asset directly to the incapacitated or disabled successor or applying it for such
28 successor's benefit, or by:

29 1. Paying it to such successor's conservator or, if no conservator exists, guardian;

30 2. Paying it to such successor's custodian under the Virginia Uniform Transfers to Minors Act
31 (§ 64.2-1900 et seq.) or custodial trustee under the Uniform Custodial Trust Act (§ 64.2-900 et seq.),
32 and, for that purpose, creating a custodianship or custodial trust;

33 3. If the designated successor does not know of a conservator, guardian, custodian, or custodial
34 trustee, paying it to an adult relative or other person having legal or physical care or custody of such
35 successor to be expended on such successor's behalf; or

36 4. Managing it as a separate fund on such successor's behalf, subject to such successor's continuing
37 right to withdraw the asset.

38 C. Any successor may be represented and bound under virtual representation provisions of
39 §§ 64.2-714, 64.2-716, and 64.2-717 with respect to affidavits required and designations of persons to
40 receive payment or delivery of a small asset under this article.

41 D. A transfer agent of any security, upon the surrender of the certificates, if any, evidencing the
42 security, shall change the registered ownership on the books of a corporation from the decedent to the
43 designated successor upon the presentation of an affidavit as provided in subsection A.

44 E. Upon the presentation of an affidavit as provided in subsection A, the designated successor may
45 endorse or negotiate any small asset that is a check, draft, or other negotiable instrument that is payable
46 to the decedent or the decedent's estate. *Notwithstanding the provisions of §§ 8.3A-403, 8.3A-417, and*
47 *8.3A-420, a financial institution accepting such check, draft, or other negotiable instrument presented*
48 *for deposit in such manner is discharged from all claims for the amount accepted.*