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**HOUSE BILL NO. 2128**

Offered January 11, 2023

Prefiled January 10, 2023

*A BILL to amend and reenact § 64.2-604 of the Code of Virginia, relating to Virginia Small Estate Act; payment or delivery of small asset; disposition and funeral expenses.*

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 Patron—Wilt
 

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 Referred to Committee for Courts of Justice
 

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**Be it enacted by the General Assembly of Virginia:****1. That § 64.2-604 of the Code of Virginia is amended and reenacted as follows:****§ 64.2-604. Payment or delivery of small asset; disposition and funeral expenses.**

Thirty days after the death of a decedent upon whose estate there shall have been no application for the appointment of a personal representative pending or granted in any jurisdiction, any A. Any person holding having possession of a small asset belonging to the decedent may shall, at the request of a successor upon presentation of an affidavit by the funeral service establishment handling the disposition of the decedent and any related funeral service, pay or deliver to such funeral service establishment so much of the small asset as (i) does not exceed the amount given priority by § 64.2-528 to the undertaker or mortuary handling the funeral of the decedent, and a receipt of the payee shall be a full and final release of the payor as to such sum and (ii) has not already been paid. In the affidavit, the funeral service establishment shall state the following:

1. That it is the licensed funeral service establishment handling the disposition of the decedent and any related funeral service;

2. Its legal name and business address;

3. The lesser of (i) the amount given priority by § 64.2-528 or (ii) the amount due and owed to it for the disposition of the decedent and any related funeral service, reduced by any payments the funeral service establishment has received or reasonably expects to receive; and

4. That no application for the appointment of a personal representative is pending, has been granted, or is expected to be granted in any jurisdiction.

B. Any person paying or delivering a small asset pursuant to subsection A is discharged and released to the same extent as if that person dealt with the personal representative of the decedent. Such person is not required to see the application of the small asset or to inquire into the truth of any statement in any affidavit presented pursuant to subsection A. If any person to whom such an affidavit is presented refuses to pay or deliver any small asset, it may be recovered, or its payment or delivery compelled, and damages may be recovered, on proof of rightful claim in a proceeding brought for that purpose by or on behalf of the funeral service establishment.

C. Any funeral service establishment to whom payment or delivery of a small asset has been made pursuant to this section is answerable and accountable therefor to any personal representative of the decedent's estate or to any other successor having an equal or superior right.

INTRODUCED

HB2128