

SENATE BILL NO. 214

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Courts of Justice

on _____)

(Patron Prior to Substitute--Senator Sturtevant)

A BILL to amend and reenact § 8.01-513 of the Code of Virginia, relating to service of garnishment summons upon corporation, limited liability company, etc.; garnishment designee.

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-513 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-513. Service upon corporation, limited liability company, limited partnership, or financial institution.

A. If the person upon whom there is a suggestion of liability as provided in § 8.01-511 is a corporation, limited liability company, limited partnership, financial institution as defined in § 6.2-100, or other entity authorized to do business in the Commonwealth under state or federal law or required to be registered by the State Corporation Commission, the summons shall be served upon ~~an officer, an employee designated by the corporation other than an officer of the corporation, or, if there is no designated employee or the designated employee cannot be found, upon a managing employee of the corporation other than an officer of the~~ garnishment designee of such corporation, limited liability company, limited partnership, financial institution as defined in § 6.2-100, or other entity, unless such garnishment designee is also the judgment debtor. If the judgment creditor or his attorney files with the court a certificate that ~~he~~ such judgment creditor or attorney has used due diligence and that (i) ~~no such officer or employee or other person authorized to accept such service can be found within the Commonwealth or~~ corporation, limited liability company, limited partnership, financial institution as defined in § 6.2-100, or other entity has no garnishment designee; (ii) such garnishment designee cannot be found at the designated address; or ~~managing employee found~~ (iii) such garnishment designee is also the judgment debtor, then such summons shall be served ~~on the registered agent of the corporation~~ (a) in

27 accordance with the provisions of § 8.01-299, 8.01-301, or 8.01-304 or other provision of law applicable
28 to service of process upon such entity or (b) upon the clerk of the State Corporation Commission as
29 provided in §§ 13.1-637, 13.1-766, 13.1-836 and 13.1-928 a managing employee. However, service on
30 the corporation shall not be made upon a designated or Before serving the registered or statutory agent of
31 a financial institution pursuant to clause (a), the judgment creditor or his attorney must further certify that
32 after exercising due diligence, no managing employee could be found in the Commonwealth, that such
33 managing employee who is also the judgment debtor, or that, upon information and belief, the financial
34 institution has authorized or requested such service of process. If the corporation intends to designate an
35 employee for service, the corporation shall file a designation with the State Corporation Commission.

36 B. ~~If the person upon whom there is a suggestion of liability as provided in § 8.01-511 is a limited~~
37 ~~liability company, the summons shall be served upon a member, manager, or employee designated by the~~
38 ~~limited liability company for the purpose of such service or, if there is no designated member, manager,~~
39 ~~or employee, or the designated member, manager, or employee cannot be found, upon a managing~~
40 ~~employee of the limited liability company. If the judgment creditor or his attorney files with the court a~~
41 ~~certificate that he has used due diligence and that (i) no such member, manager, or employee or other~~
42 ~~person authorized to accept such service can be found within the Commonwealth or (ii) such designated~~
43 ~~member, manager, employee, or managing employee found is also the judgment debtor, then such~~
44 ~~summons shall be served on the registered agent of the limited liability company or upon the clerk of the~~
45 ~~State Corporation Commission as provided in § 13.1-1018. However, service on the limited liability~~
46 ~~company shall not be made upon a designated member, manager, employee, or managing employee who~~
47 ~~is also the judgment debtor. If the limited liability company intends to designate a member, manager, or~~
48 ~~employee for service, the limited liability company shall file a designation with the State Corporation~~
49 ~~Commission.~~

50 C. ~~For the purposes of this section,:~~

51 "Garnishment designee" means an employee, officer, member, manager, partner, registered agent,
52 or other natural person designated by a corporation, limited liability company, limited partnership,
53 financial institution as defined in § 6.2-100, or other entity pursuant to a designation filed with the State

54 Corporation Commission. Such designation shall include the garnishment designee's name and physical
55 street address within the Commonwealth where service may be made during regular business hours. The
56 garnishment designee may designate one or more additional natural persons at the same physical street
57 address upon whom summons may be served. Such designation shall be in writing and shall be notarized.
58 Whenever such other designated person accepts service of process on behalf of the garnishment designee,
59 a copy of such written and notarized designation shall be attached to the return of service of process.

60 ~~"managing employee"~~ "Managing employee" means an employee charged by the corporation or
61 ~~the~~ limited liability company, limited partnership, financial institution as defined in § 6.2-100, or other
62 entity as applicable, with the control or who reasonably appears to have control of operations and
63 supervision of employees at the business location of such corporation or limited liability company where
64 process is sought to be served.

65 #