

HOUSE BILL NO. 1249

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Delegate Williams)

A BILL to amend and reenact § 17.1-607 of the Code of Virginia, relating to security for costs upon suit by nonresident plaintiff.

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-607 of the Code of Virginia is amended and reenacted as follows:

§ 17.1-607. Security for costs upon suit by nonresident.

In any plaintiff's suit or action by a nonresident of the Commonwealth, except when an such plaintiff is indigent is plaintiff, there may be a suggestion on the record in court, or, if the case be at rules, on the rule docket, by a defendant, or any officer of the court, that the plaintiff is not a resident of this Commonwealth and the security is required of him. After sixty days from such suggestion, the suit or action shall, by order of the court, be dismissed, unless, before the dismissal, it is proven that plaintiff is a resident of the Commonwealth or security be given before the court, or its clerk, for the payment of the costs and damages in the court in which the suit or action is instituted which may be awarded to the defendant, and of the fees due, or to become due, in such suit or action to the officers of the court. The, upon motion by any party to such suit or action and for good cause shown, the court may order that the plaintiff post security within 60 days following entry of such order in an amount determined to be sufficient by such court but not exceeding \$250 for the payment of costs in the court in which the suit or action is instituted and that may be awarded to the defendant. Any security shall so given may be by (i) payment to the moving party or his counsel, who shall hold such payment in trust in an interest-bearing account for the benefit of the prevailing party in such suit or action; (ii) payment into the court pursuant to § 8.01-600; or (iii) bond, payable to the Commonwealth, but there need only be one obligor therein, if he such obligor be sufficient and a resident of the Commonwealth. The court before whom, or before

27 whose clerk, such bond or other payment made pursuant to this section is given, may, on motion by a
28 defendant or officer, give judgment for so much as he is entitled to by virtue of such bond or other payment
29 made pursuant to this section.

30 As used in this section, the term "plaintiff" shall also apply to a counterclaim plaintiff, cross-claim
31 plaintiff, or third-party plaintiff, and the term "defendant" shall also apply to a counterclaim defendant,
32 cross-claim defendant, or third-party defendant.

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