

HOUSE BILL NO. 1248

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on February 9, 2024)

(Patron Prior to Substitute--Delegate Williams)

A BILL to amend and reenact § 8.01-506 of the Code of Virginia, relating to debtor interrogatories; fieri facias; against whom a summons shall be issued.

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-506 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-506. Proceedings by interrogatories to ascertain estate of debtor; summons; proviso; objections by judgment debtor.

A. To ascertain the personal estate of a judgment debtor, and to ascertain any real estate, in or out of ~~this~~ the Commonwealth, to which the debtor named in a judgment and fieri facias is entitled, upon the application of the execution creditor, the clerk of the court from which such fieri facias issued shall issue a summons against (i) the execution debtor, (ii) any officer of the corporation if such execution debtor is a corporation having an office in ~~this~~ the Commonwealth, (iii) any employee of a corporation if such execution debtor is a corporation having an office but no officers in the Commonwealth provided that a copy of the summons shall also be served upon the registered agent of the corporation, or (iv) any debtor to, or bailee of, the execution debtor, if the judgment creditor or such judgment creditor's attorney files an affidavit that he knows or reasonably suspects such person to be a debtor to, or bailee of, the execution debtor.

B. The summons shall require him to appear before the court from which the fieri facias issued or a commissioner of the county or city in which such court is located, or a like court or a commissioner of a county or city contiguous thereto, or upon request of the execution creditor, before a like court or a commissioner of the county or city in which the execution debtor resides, or of a county or city contiguous thereto, to answer such interrogatories as may be propounded to him by the execution creditor or his

27 attorney, or the court, or the commissioner, as the case may be. If the execution creditor requests that the
28 summons require the execution debtor to appear before a like court of the county or city in which the
29 execution debtor resides, or of a county or city contiguous thereto, the case may be filed or docketed in
30 accordance with the requirements of § 8.01-506.2 prior to issuance of the summons.

31 C. Provided, however, that as a condition precedent to proceeding under this section, the execution
32 creditor has furnished to the court a certificate setting forth that he has not proceeded against the execution
33 debtor under this section within the six months last preceding the date of such certificate. Except that for
34 good cause shown, the court may, on motion of the execution creditor, issue an order allowing further
35 proceedings before a commissioner by interrogatories during the six-month period. Any judgment creditor
36 who knowingly gives false information upon any such certificate made under this article shall be guilty
37 of a Class 1 misdemeanor. The issuance of a summons that is not served shall not constitute the act of
38 proceeding against an execution debtor for purposes of making the certificate required by this subsection.

39 D. The debtor or other person served with such summons shall appear at the time and place
40 mentioned and make answer to such interrogatories. The commissioner shall, at the request of either of
41 the parties, enter in his proceedings and report to the court mentioned in § 8.01-507.1, any and all
42 objections taken by such debtor against answering such interrogatories, or any or either of them, and if
43 the court afterwards sustains any one or more of such objections, the answers given to such interrogatories
44 as to which objections are sustained shall be held for naught in that or any other case.

45 E. Notwithstanding the foregoing provisions of this section, the court from which a writ of fieri
46 facias issued, upon motion by the execution debtor ~~and~~, or by a person summoned pursuant to clause (iv)
47 of subsection A, for good cause shown, shall transfer debtor interrogatory proceedings to a more
48 convenient forum ~~more convenient to the execution debtor~~.

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