

HOUSE BILL NO. 1248

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice

on _____)

(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, manager, or partner of the a corporation, limited liability company, partnership, or other business entity if such execution debtor is ~~a corporation~~ an entity having an office in ~~this~~ the Commonwealth; (iii) any employee of ~~a corporation~~ such entity if such execution debtor is ~~a corporation~~ an entity having an office but no known officers, managers, or partners in the Commonwealth, provided that a copy of the summons shall also be served upon the registered agent of ~~the corporation, such entity;~~ such entity; 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

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

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

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

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

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