

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 64.2-552 and 64.2-556 of the Code of Virginia and to amend the Code of*
 3 *Virginia by adding in Article 1 of Chapter 5 of Title 64.2 a section numbered 64.2-508.1, relating to*
 4 *administration of estates; claims against decedent or estate.*

5 [H 307]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That §§ 64.2-552 and 64.2-556 of the Code of Virginia are amended and reenacted and that the Code**
 9 **of Virginia is amended by adding in Article 1 of Chapter 5 of Title 64.2 a section numbered**
 10 **64.2-508.1as follows:**

11 **§ 64.2-508.1. Notice to creditors for presentation of claims against decedent.**

12 *A. For purposes of this section, "claim" means all claims against a decedent's estate that arose before the*
 13 *death of the decedent, except a contingent claim based on any warranty made in connection with the*
 14 *conveyance of real estate and claims of the United States and tax claims of the Commonwealth and*
 15 *subdivisions thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated,*
 16 *secured or unsecured, founded on contract, tort, or other legal basis. "Claim" does not include (i) any*
 17 *mortgage, pledge, security interest, or other lien existing at the date of death of the decedent or (ii) claims of*
 18 *heirs or devisees to their respective shares or interests in the decedent's estate in their capacity as such heirs*
 19 *or devisees.*

20 *B. The personal representative of a decedent's estate, upon qualification, may publish a notice to all*
 21 *persons having a claim against the decedent to present such claim on or before the date to be specified in the*
 22 *notice under this section. The notice shall be published once a week for two consecutive weeks in a*
 23 *newspaper of general circulation in the city or county in which the personal representative qualified in*
 24 *accordance with the provisions of § 8.01-324. At the same time, the personal representative shall personally*
 25 *deliver or send by first class mail a copy of the notice published under this section to the last known address*
 26 *of all persons having a disputed claim against the decedent that are actually known or can be ascertained by*
 27 *the personal representative with reasonable diligence.*

28 *C. Any notice published pursuant to this section shall include the following information:*29 *1. The name and date of death of the decedent;*30 *2. The name, address, and telephone number of the personal representative;*31 *3. The mailing address of the clerk of the court in which the personal representative qualified;*

32 *4. A statement that all persons having a claim against the decedent shall present such claim to the*
 33 *personal representative in the manner specified in this section on or before the later of (i) at least six months*
 34 *from the date of the first publication of the notice or (ii) 90 days after the personal representative mails or*
 35 *otherwise delivers a copy of the notice as published to the claimant; and*

36 *5. A statement that, unless a claim is timely presented to the personal representative in the manner*
 37 *specified in this section, the liability of the personal representative or his surety for such claim shall not*
 38 *exceed the assets of the decedent remaining in the possession of the personal representative and available for*
 39 *application to the claim pursuant to § 64.2-528 at the time a demand for payment of such claim is presented*
 40 *to the personal representative.*

41 *D. Within 30 days after completing the publication of notice and sending a copy of the notice to all*
 42 *persons with a disputed claim under this section, the personal representative shall file with the clerk of the*
 43 *court in which the personal representative qualified an affidavit providing proof of publication of the notice*
 44 *and stating the names and addresses of the persons to whom the personal representative has mailed or*
 45 *delivered a copy of the notice and when the notice was mailed or delivered to each. If the personal*
 46 *representative is required to file the inventory and accounts with the commissioner of accounts, the personal*
 47 *representative shall, upon filing such affidavit with the clerk, provide a copy of the affidavit to such*
 48 *commissioner of accounts.*

49 *E. A claim against the decedent under this section shall be in writing and shall state the amount or item*
 50 *claimed or other relief sought, the basis for the claim, and the name and address of the claimant. Such claim*
 51 *shall be presented either:*

52 *1. By delivery in person or by mailing, registered or certified mail, return receipt requested, to the*
 53 *personal representative. Such claim shall be deemed to have been presented at the time of delivery in person*
 54 *to the personal representative or agent for the personal representative when the return receipt is signed by*
 55 *the personal representative or agent for the personal representative or when the writing, either in person or*
 56 *mailed, is refused by the personal representative or agent for the personal representative; or*

57 2. By filing with the commissioner of accounts pursuant to § 64.2-552. Such claim shall be deemed to
58 have been presented to the personal representative on the date of such filing.

59 F. Notwithstanding any provision of law to the contrary, if any claim is not timely presented to the
60 personal representative in accordance with this section, the liability of a personal representative or his surety
61 who has in good faith complied with the provisions of this section shall not exceed the assets of the decedent
62 remaining in the possession of the personal representative and available for application to the claim
63 pursuant to § 64.2-528 at the time a demand for payment of such claim is presented to the personal
64 representative. However, every legatee or distributee to whom any payment or delivery is made from the
65 decedent's estate, and his representatives, may, in a suit brought against him within five years after such
66 payment or delivery is made, be adjudged to refund a due proportion of any claims enforceable against the
67 decedent or his estate that have been finally allowed by the commissioner of accounts or the court, or that
68 were not presented to the commissioner of accounts, and the costs of the recovery of such claim. Nothing in
69 this section shall affect the liability of the estate for such claim to the extent of the decedent's assets
70 remaining at the time a claim is filed.

71 G. If the personal representative in good faith believes that the notice required by this section to a
72 particular creditor is or may be required and gives notice based on that belief, the personal representative
73 shall not be liable to any person for giving such notice, whether or not such notice is actually required under
74 this section. If the personal representative in good faith fails to give notice required by this section, the
75 personal representative shall not be liable to any person for the failure.

76 **§ 64.2-552. How claims filed before commissioners of accounts; tolling of limitations period.**

77 A. Any person who seeks to prove that he has a debt or demand against the decedent or the decedent's
78 estate shall file his claim in writing with the commissioner of accounts, who shall endorse upon it the date of
79 the filing and sign the endorsement in his official character.

80 B. If the commissioner of accounts recommends in writing the recovery or enforcement of a claim for a
81 debt or demand against the decedent or the decedent's estate, the filing of such claim with the commissioner
82 of accounts pursuant to subsection A shall toll any limitations period that would otherwise bar an action for
83 the recovery or enforcement of the claim or bar the filing of such claim until the termination of the
84 proceedings commenced under § 64.2-550.

85 C. The provisions of this section shall apply to any claim timely presented to the personal representative
86 pursuant to § 64.2-508.1.

87 **§ 64.2-556. Order to creditors to show cause against distribution of estate to legatees or distributees;
88 liability of legatees or distributees to refund.**

89 A. When a report of the accounts of any personal representative and of the debts and demands against the
90 decedent's estate has been filed in the office of a clerk of a court, whether under §§ 64.2-550 and 64.2-551 or
91 in a civil action, the court, after six months from the qualification of the personal representative, may, on
92 motion of the personal representative, or a successor or substitute personal representative, or on motion of a
93 legatee or distributee of the decedent, enter an order for the creditors and all other persons interested in the
94 estate of the decedent to show cause on the day named in the order against the payment and delivery of the
95 estate of the decedent to his legatees or distributees. A copy of the order shall be published once a week for
96 two successive weeks, in one or more newspapers, as the court directs; the costs of such publication shall be
97 paid by the petitioner or applicant. On or after the day named in the order, the court may order the payment
98 and delivery to the legatees or distributees of the whole or a part of the money and other estate not before
99 distributed, with or without a refunding bond, as it prescribes. However, every legatee or distributee to whom
100 any such payment or delivery is made, and his representatives, may, in a suit brought against him within five
101 years after such payment or delivery is made, be adjudged to refund a due proportion of any claims
102 enforceable against the decedent or his estate that have been finally allowed by the commissioner of accounts
103 or the court, or that were not presented to the commissioner of accounts, and the costs of the recovery of such
104 claim. In the event any claim becomes known to the fiduciary after the notice for debts and demands but prior
105 to the entry of an order of distribution, the claimant, if the claim is disputed, shall be given notice in the form
106 provided in § 64.2-550 and the order of distribution shall not be entered until after expiration of 10 days from
107 the giving of such notice. If the claimant, within such 10-day period, indicates his desire to pursue the claim,
108 the commissioner of accounts shall schedule a date for hearing the claim and for reporting thereon if action
109 thereon is contemplated under § 64.2-550.

110 B. Any personal representative who has in good faith complied with the provisions of this section and has,
111 in compliance with or, as subsequently approved by, the order of the court, paid and delivered the money or
112 other estate in his possession to any party that the court has adjudged entitled thereto shall not be liable for
113 any demands of creditors and all other persons.

114 C. Any personal representative who has in good faith complied with the provisions of this section and has,
115 in compliance with, or as subsequently approved by, the order of the court, paid and delivered the money or
116 other estate in his possession to any party that the court has adjudged entitled thereto, even if such
117 distribution shall be prior to the expiration of the period of one year provided in § 64.2-302, Article 1.1
118 (§ 64.2-308.1 et seq.) of Chapter 3, or § 64.2-313, 64.2-448, or 64.2-457, shall not be liable for any demands

119 of spouses, persons seeking to impeach the will or establish another will, or purchasers of real estate from the
120 personal representative, provided that the personal representative has contacted any surviving spouse known
121 to it having rights of renunciation and ascertained that the surviving spouse had no plan to renounce the will,
122 such intent to be stated in writing in the case of renunciation under § 64.2-302 or Article 1.1 (§ 64.2-308.1 et
123 seq.) of Chapter 3, as applicable, and that the personal representative has not been notified in writing of any
124 person's intent to impeach the will or establish a later will in the case of persons claiming under § 64.2-448 or
125 64.2-457 or under a later will.

126 D. In the case of such distribution prior to the expiration of such one-year period, the personal
127 representative shall take refunding bonds, without surety, to the next of kin or legatees to whom distribution
128 is made, to protect against the contingencies specified in this section.

129 *E. No personal representative who has in good faith complied with the provisions of § 64.2-508.1 shall be*
130 *liable for any demands of creditors against a decedent's estate that arose before the death of the decedent.*

ENROLLED

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