

## 2005 SESSION

INTRODUCED

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### HOUSE BILL NO. 1559

Offered January 12, 2005

Prefiled December 6, 2004

*A BILL to amend and reenact § 34-17 of the Code of Virginia, relating to exemptions in bankruptcy.*

Patrons—Sherwood and Athey

Referred to Committee for Courts of Justice

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

#### **1. That § 34-17 of the Code of Virginia is amended and reenacted as follows:**

§ 34-17. When exemption may be set apart; garnished wages.

A. The real or personal estate which a householder is entitled to hold as exempt may be set apart at any time before it is subjected by sale under creditor process, or, if such creditor process does not require sale of the property, before it is turned over to the creditor. To claim an exemption in bankruptcy, a householder who (i) files a voluntary petition in bankruptcy or (ii) against whom an involuntary petition in bankruptcy is filed shall set such real or personal property apart on or before the fifth day after the date ~~initially set for~~ of the meeting held pursuant to 11 USC § 341, but not thereafter. A householder who converts a case from Chapters 11, 12, or 13 to Chapter 7 shall set such real or personal property apart on or before the fifth day after the date ~~initially set for~~ of the meeting held pursuant to 11 U.S.C. § 341 in the Chapter 7 case, but not thereafter. Nothing in this section shall affect the right of the trustee in bankruptcy, with the approval of the court, to proceed immediately with the sale or other disposition of personal property which the trustee determines to be perishable or particularly susceptible to price deterioration.

B. A claim of homestead exemption to protect garnished wages may be filed by the debtor after the garnishment summons is served on the employer but prior to or upon the return date of the garnishment summons and shall be considered by the garnishing court.

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