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SENATE BILL NO. 839

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 21, 2011)

(Patron Prior to Substitute—Senator Petersen)

A *BILL to amend and reenact § 34-26 of the Code of Virginia, relating to homestead exemptions; debtor's exemptions.*

Be it enacted by the General Assembly of Virginia:

1. That § 34-26 of the Code of Virginia is amended and reenacted as follows:

§ 34-26. Poor debtor's exemption; exempt articles enumerated.

In addition to the exemptions provided in Chapter 2 (§ 34-4 et seq.) of this title, every householder shall be entitled to hold exempt from creditor process the following enumerated items:

1. The family Bible.

1a. Wedding and engagement rings.

2. Family portraits and family heirlooms not to exceed \$5,000 in value.

3. (i) A lot in a burial ground, and (ii) any preneed funeral contract not to exceed \$5,000.

4. All wearing apparel of the householder not to exceed \$1,000 in value.

4a. All household furnishings including, but not limited to, beds, dressers, floor coverings, stoves, refrigerators, washing machines, dryers, sewing machines, pots and pans for cooking, plates, and eating utensils, not to exceed \$5,000 in value.

4b. *One family firearm, not to exceed \$3,000 in value.*

5. All animals owned as pets, such as cats, dogs, birds, squirrels, rabbits and other pets not kept or raised for sale or profit.

6. Medically prescribed health aids.

7. Tools, books, instruments, implements, equipment, and machines, including motor vehicles, vessels, and aircraft, which are necessary for use in the course of the householder's occupation or trade not exceeding \$10,000 in value, except that a perfected security interest on such personal property shall have priority over the claim of exemption under this section. A motor vehicle, vessel or aircraft used to commute to and from a place of occupation or trade and not otherwise necessary for use in the course of such occupation or trade shall not be exempt under this subdivision. "Occupation," as used in this subdivision, includes enrollment in any public or private elementary, secondary, or career and technical education school or institution of higher education.

8. A motor vehicle, not held as exempt under subdivision 7, owned by the householder, not to exceed ~~\$2,000~~ \$6,000 in value, except that a perfected security interest on the motor vehicle shall have priority over the claim of exemption under this subdivision.

The value of an item claimed as exempt under this section shall be the fair market value of the item less any prior security interest.

The monetary limits, where provided, are applicable to the total value of property claimed as exempt under that subdivision.

The purchase of an item claimed as exempt under this section with nonexempt property in contemplation of bankruptcy or creditor process shall not be deemed to be in fraud of creditors.

No officer or other person shall levy or distrain upon, or attach, such articles, or otherwise seek to subject such articles to any lien or process. It shall not be required that a householder designate any property exempt under this section in a deed in order to secure such exemption.