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HOUSE BILL NO. 2015

Offered January 14, 2015

Prefiled January 14, 2015

A BILL to amend and reenact §§ 34-3.1 and 34-26 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 34 a section numbered 34-28.2, relating to bankruptcy proceeding exemptions.

Patron—Surovell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 34-3.1 and 34-26 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 34 a section numbered 34-28.2 as follows:

§ 34-3.1. Property specified in Bankruptcy Reform Act exempt.

~~No~~ *An individual may exempt from the property of the estate in any bankruptcy proceeding the property specified in subsection (d) of § 522 of the Bankruptcy Reform Act (Public Law 95-598), except as may otherwise be expressly permitted under this title.*

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

In addition to the exemptions provided in Chapter 2 (§ 34-4 et seq.), 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 firearm~~ *Firearms*, 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~~ *Motor vehicles*, not held as exempt under subdivision 7, owned by the householder, not to exceed \$6,000 in value, except that a perfected security interest on ~~the~~ a motor vehicle shall have priority over the claim of exemption under this subdivision.

9. *Those portions of a tax refund or governmental payment attributable to the Child Tax Credit or Additional Child Tax Credit pursuant to § 24 of the Internal Revenue Code of 1986, as amended, or the Earned Income Credit pursuant to § 32 of the Internal Revenue Code of 1986, as amended.*

10. *Unpaid spousal or child support.*

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.

§ 34-28.2. Spousal and child support exempt.

The debtor's right to receive spousal or child support, to the extent reasonably necessary for the

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59 *support of the debtor and any dependent of the debtor, shall be exempt from creditor process.*