21100334D

HOUSE BILL NO. 1814

Offered January 13, 2021

Prefiled January 6, 2021

A BILL to amend and reenact § 34-29 of the Code of Virginia, relating to garnishment of wages; protected portion of disposable earnings.

Patrons—Krizek and Guzman

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 34-29 of the Code of Virginia is amended and reenacted as follows:

§ 34-29. Maximum portion of disposable earnings subject to garnishment.

(a) Except as provided in subsections (b) and (b1), the maximum part of the aggregate disposable earnings of an individual for any workweek ~~which~~ *that* is subjected to garnishment may not exceed the lesser of the following amounts:

(1) Twenty-five percent of his disposable earnings for that week~~,~~*;* or

(2) The amount by which his disposable earnings for that week exceed 40 times the federal minimum hourly wage prescribed by ~~§ 206 (a) (1) of Title~~ 29 ~~of the United States Code~~ *U.S.C. § 206(a)(1) or the Virginia minimum hourly wage prescribed by § 40.1-28.10, whichever is greater,* in effect at the time earnings are payable.

In the case of earnings for any pay period other than a week, the State Commissioner of Labor and Industry shall by regulation prescribe a multiple of the federal *or Virginia* minimum hourly wage equivalent in effect to that set forth in this section.

(b) The restrictions of subsection (a) do not apply in the case of:

(1) Any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure~~, which~~ *that* is established by state law, ~~which~~ affords substantial due process, and ~~which~~ is subject to judicial review.

(2) Any order of any court of bankruptcy under Chapter XIII of the Bankruptcy Act.

(3) Any debt due for any state or federal tax.

(b1) The maximum part of the aggregate disposable earnings of an individual for any workweek ~~which~~ *that* is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) Sixty percent of such individual's disposable earnings for that week; or

(2) If such individual is supporting a spouse or dependent child other than the spouse or child with respect to whose support such order was issued, 50 percent of such individual's disposable earnings for that week.

The 50 percent specified in subdivision ~~(b1)~~ (2) shall be 55 percent and the 60 percent specified in subdivision ~~(b1)~~ (1) shall be 65 percent if and to the extent that such earnings are subject to garnishment to enforce an order for support for a period ~~which~~ *that* is more than 12 weeks prior to the beginning of such workweek.

(c) No court of the Commonwealth and no state agency or officer may make, execute, or enforce any order or process in violation of this section.

The exemptions allowed herein shall be granted to any person so entitled without any further proceedings.

(d) For the purposes of this section:

(1) The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, payments to an independent contractor, or otherwise, whether paid directly to the individual or deposited with another entity or person on behalf of and traceable to the individual, and includes periodic payments pursuant to a pension or retirement program,

(2) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld, and

(3) The term "garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

(e) Every assignment, sale, transfer, pledge, or mortgage of the wages or salary of an individual ~~which~~ *that* is exempted by this section, to the extent of the exemption provided by this section, shall be void and unenforceable by any process of law.

(f) No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness.

(g) A depository wherein earnings have been deposited on behalf of and traceable to an individual

shall not be required to determine the portion of such earnings ~~which~~ *that* are subject to garnishment.