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HOUSE BILL NO. 2740

House Amendments in [] — February 3, 2003

A BILL to amend and reenact § 34-17 of the Code of Virginia, relating to garnishment.

Patron Prior to Engrossment—Delegate Reese

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.

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 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 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 [and shall be recognized by the garnishing court by the debtor] at any time after the garnishment summons is served on the employer [; and when so filed shall protect wages for the entire period of the garnishment, up to the limit of the claimed exemption, and the amount to be garnished during the garnishment period shall apply toward the limits of the homestead exemption. , and shall be recognized by the garnishing court.]~~

ENGROSSED

HB2740E