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HOUSE BILL NO. 1864

Offered January 13, 2025

Prefiled January 6, 2025

A BILL to amend and reenact § 34-26 of the Code of Virginia, relating to poor debtor's exemption; depository institution account exemption.

Patrons—Hernandez, Anthony, Askew, Callsen, Cohen, Cousins, Feggans, Gardner, Henson, LeVere
Bolling, Martinez, McClure, Price, Shin, Thomas and Tran

Referred to Committee for Courts of Justice

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.), 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. Firearms, not to exceed a total of \$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. Motor vehicles, not held as exempt under subdivision 7, owned by the householder, not to exceed a total of \$10,000 in value, except that a perfected security interest on 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.
11. *Holdings of a householder in an account in a depository institution not to exceed \$5,000 in value. This exemption shall not reduce or exclude any other exemption provided under state or federal law. A depository institution shall, upon receipt of an order of garnishment, attachment, or other levy, answer such order and, if the householder maintains a deposit account with such depository institution, state (i) that the total amount in such account does not exceed \$5,000 or (ii) the amount of funds in excess of \$5,000 being held pending further order of the court. Nothing in this subdivision shall be construed to create a cause of action against a depository institution that complies with a writ of garnishment or other levy or attachment. For the purposes of this subdivision, "depository institution" means any bank or savings institution.*

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

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58 under this section in a deed in order to secure such exemption.

59 On April 1, 2027, and at each three-year interval ending on April 1 thereafter, each monetary limit in
60 effect under this section immediately before such April 1 shall be adjusted to reflect the change in the
61 Consumer Price Index for all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the
62 U.S. Department of Labor, for the most recent three-year period ending immediately before January 1
63 preceding such April 1, and rounded to the nearest \$25, the dollar amount that represents such change.
64 Adjustments made in this section shall not apply with respect to bankruptcy cases commenced before April 1,
65 2027.