

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 34-29 of the Code of Virginia, relating to exemptions from garnishment;*
 3 *exemptions in bankruptcy proceedings; disposable earnings.*

4 [H 445]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 34-29 of the Code of Virginia is amended and reenacted as follows:**8 **§ 34-29. Maximum portion of disposable earnings subject to garnishment.**

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

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

13 (2) The amount by which his disposable earnings for that week exceed 40 times the federal minimum
 14 hourly wage prescribed by 29 U.S.C. § 206(a)(1) or the Virginia minimum hourly wage prescribed by
 15 § 40.1-28.10, whichever is greater, in effect at the time earnings are payable.

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

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

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

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

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

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

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

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

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

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

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

36 (d) For the purposes of this section:

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

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

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

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

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

50 (g) A depository wherein earnings have been deposited on behalf of and traceable to an individual shall
 51 not be required to determine the portion of such earnings that are subject to garnishment.

52 (h) *Except as otherwise provided in this section, the exemption provided by this section shall also apply to*
 53 *an individual's disposable earnings in a bankruptcy proceeding.*

ENROLLED

HB445ER