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HOUSE BILL NO. 2046

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Bourne)

A BILL to amend and reenact §§ 36-96.3 and 36-96.17 of the Code of Virginia, relating to the Virginia Fair Housing Law; unlawful discriminatory housing practices.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 36-96.3 and 36-96.17 of the Code of Virginia are amended and reenacted as follows:**

**§ 36-96.3. Unlawful discriminatory housing practices.**

A. It shall be an unlawful discriminatory housing practice for any person to:

1. Refuse to sell or rent after the making of a bona fide offer or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, sexual orientation, gender identity, or status as a veteran;

2. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in the connection therewith to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, sexual orientation, gender identity, or status as a veteran;

3. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation, or discrimination on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability. The use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence of an illegal preference under this chapter that shall not be overcome by a general disclaimer. However, reference alone to places of worship,

27 including churches, synagogues, temples, or mosques, in any such notice, statement, or advertisement  
28 shall not be prima facie evidence of an illegal preference;

29 4. Represent to any person because of race, color, religion, national origin, sex, elderliness, familial  
30 status, source of funds, sexual orientation, gender identity, status as a veteran, or disability that any  
31 dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

32 5. Deny any person access to membership in or participation in any multiple listing service, real  
33 estate brokers' organization, or other service, organization or facility relating to the business of selling or  
34 renting dwellings or discriminate against such person in the terms or conditions of such access,  
35 membership, or participation because of race, color, religion, national origin, sex, elderliness, familial  
36 status, source of funds, sexual orientation, gender identity, status as a veteran, or disability;

37 6. Include in any transfer, sale, rental, or lease of housing any restrictive covenant that  
38 discriminates because of race, color, religion, national origin, sex, elderliness, familial status, source of  
39 funds, sexual orientation, gender identity, status as a veteran, or disability or for any person to honor or  
40 exercise, or attempt to honor or exercise, any such discriminatory covenant pertaining to housing;

41 7. Induce or attempt to induce to sell or rent any dwelling by representations regarding the entry  
42 or prospective entry into the neighborhood of a person or persons of a particular race, color, religion,  
43 national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status  
44 as a veteran, or disability;

45 8. Refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise discriminate  
46 or make unavailable or deny a dwelling because of a disability of (i) the buyer or renter; (ii) a person  
47 residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (iii) any  
48 person associated with the buyer or renter; or

49 9. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a  
50 dwelling, or in the provision of services or facilities in connection therewith because of a disability of (i)  
51 that person; (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented, or  
52 made available; or (iii) any person associated with that buyer or renter.

53 B. For the purposes of this section, discrimination includes (i) a refusal to permit, at the expense  
54 of the disabled person, reasonable modifications of existing premises occupied or to be occupied by any  
55 person if such modifications may be necessary to afford such person full enjoyment of the premises; except  
56 that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a  
57 modification on the renter's agreeing to restore the interior of the premises to the condition that existed  
58 before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable  
59 accommodations in rules, practices, policies, or services when such accommodations may be necessary to  
60 afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection with the design  
61 and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to  
62 design and construct dwellings in such a manner that:

63 1. The public use and common use areas of the dwellings are readily accessible to and usable by  
64 disabled persons;

65 2. All the doors designed to allow passage into and within all premises are sufficiently wide to  
66 allow passage by disabled persons in wheelchairs; and

67 3. All premises within covered multi-family dwelling units contain an accessible route into and  
68 through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are  
69 in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab  
70 bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver  
71 about the space. As used in this subdivision, the term "covered multi-family dwellings" means buildings  
72 consisting of four or more units if such buildings have one or more elevators and ground floor units in  
73 other buildings consisting of four or more units.

74 C. It shall be an unlawful discriminatory housing practice for any political jurisdiction or its  
75 employees or appointed commissions to discriminate in the application of local land use ordinances or  
76 guidelines, or in the permitting of housing developments, (i) on the basis of race, color, religion, national  
77 origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a  
78 veteran, or disability; (ii) because the housing development contains or is expected to contain affordable  
79 housing units occupied or intended for occupancy by families or individuals with incomes at or below 80

80 percent of the median income of the area where the housing development is located or is proposed to be  
81 located; or (iii) by prohibiting or imposing conditions upon the rental or sale of dwelling units, provided  
82 that the provisions of this subsection shall not be construed to prohibit ordinances related to short-term  
83 rentals as defined in § 15.2-983. It shall not be a violation of this chapter if land use decisions or decisions  
84 relating to the permitting of housing developments are based upon considerations of limiting high  
85 concentrations of affordable housing.

86 D. Compliance with the appropriate requirements of the American National Standards for Building  
87 and Facilities (commonly cited as "ANSI A117.1") or with any other standards adopted as part of  
88 regulations promulgated by HUD providing accessibility and usability for physically disabled people shall  
89 be deemed to satisfy the requirements of subdivision B 3.

90 ~~D.~~E. Nothing in this chapter shall be construed to invalidate or limit any Virginia law or regulation  
91 that requires dwellings to be designed and constructed in a manner that affords disabled persons greater  
92 access than is required by this chapter.

93 **§ 36-96.17. Civil action by Attorney General; matters involving the legality of any local**  
94 **zoning or other land use ordinance; pattern or practice cases; or referral of conciliation agreement**  
95 **for enforcement.**

96 A. If the Board determines, after consultation with the Office of the Attorney General, that an  
97 alleged discriminatory housing practice involves (i) the legality of any local zoning or land use ordinance  
98 or (ii) activity proscribed in subsection C of § 36-96.3, instead of issuing a charge, the Board shall  
99 immediately refer the matter to the Attorney General for civil action in the appropriate circuit court for  
100 appropriate relief. A civil action under this subsection shall be commenced no later than the expiration of  
101 ~~eighteen~~ 18 months after the date of the occurrence or the termination of the alleged discriminatory  
102 housing practice.

103 B. Whenever the Attorney General has reasonable cause to believe that any person or group of  
104 persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted  
105 by this chapter, or that any group of persons has been denied any of the rights granted by this chapter and

106 such denial raises an issue of general public importance, the Attorney General may commence a civil  
107 action in the appropriate circuit court for appropriate relief.

108 C. In the event of a breach of a conciliation agreement by a respondent, the Board may authorize  
109 a civil action by the Attorney General. The Attorney General may commence a civil action in any  
110 appropriate circuit court for appropriate relief. A civil action under this subsection shall be commenced  
111 no later than the expiration of ~~ninety~~ 90 days after the referral of such alleged breach.

112 D. The Attorney General, on behalf of the Board, or other party at whose request a subpoena is  
113 issued, under this chapter, may enforce such subpoena in appropriate proceedings in the appropriate circuit  
114 court.

115 E. In a civil action under subsections A, B, and C, the court may:

116 1. Award such preventive relief, including a permanent or temporary injunction, restraining order,  
117 or other order against the person responsible for a violation of this chapter as is necessary to assure the  
118 full enjoyment of the rights granted by this chapter.

119 2. Assess a civil penalty against the respondent (i) in an amount not exceeding \$50,000 for a first  
120 violation; and (ii) in an amount not exceeding \$100,000 for any subsequent violation.

121 3. Award the prevailing party reasonable ~~attorney's~~ attorney fees and costs. The Commonwealth  
122 shall be liable for such fees and costs to the extent provided by the Code of Virginia.

123 The court or jury may award such other relief to the aggrieved person, as the court deems  
124 appropriate, including compensatory damages, and punitive damages without limitation otherwise  
125 imposed by state law.

126 F. Upon timely application, any person may intervene in a civil action commenced by the Attorney  
127 General under subsection A, B, or C ~~which~~ that involves an alleged discriminatory housing practice with  
128 respect to which such person is an aggrieved person or a party to a conciliation agreement. The court may  
129 grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a  
130 civil action under § 36-96.18.

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