

HOUSE BILL NO. 277

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns

on _____)

(Patron Prior to Substitute--Delegate Coyner)

A BILL to amend and reenact §§ 15.2-2291, 37.2-431.1, and 55.1-1201 of the Code of Virginia, relating to certified recovery residences.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2291, 37.2-431.1, and 55.1-1201 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2291. Assisted living facilities and group homes of eight or fewer; single-family residence.

A. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident or nonresident staff persons, as residential occupancy by a single family. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in § 54.1-3401. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or other residential facility for which the Department of Behavioral Health and Developmental Services is the licensing authority pursuant to this Code.

B. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any assisted living facility or residential

27 facility in which aged, infirm or disabled persons reside with one or more resident counselors or other
28 staff persons and for which the Department of Social Services is the licensing authority pursuant to this
29 Code.

30 C. Zoning ordinances for all purposes shall consider a certified recovery residence, as defined in
31 § 37.2-431.1, in which individuals with substance abuse disorder reside, either with or without one or
32 more resident or nonresident staff persons, and in which a certifying entity verifies 50 square feet per bed
33 per sleeping room as residential occupancy by a single family. No conditions more restrictive than those
34 imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on
35 such certified recovery residence.

36 **§ 37.2-431.1. Certified recovery residences.**

37 A. As used in this section:

38 "Certified recovery residence" means a recovery residence that has been certified by the
39 Department.

40 "Credentialing entity" means a nonprofit organization that develops and administers professional
41 certification programs according to ~~nationally recognized recovery housing~~ standards of the National
42 Alliance for Recovery Residences or standards endorsed by Oxford House, Inc.

43 "Level of support" means the level of support and structure that a certified recovery residence
44 provides to residents, as specified in the standards of the National Alliance for Recovery Residences.

45 "Recovery residence" means a housing facility that provides alcohol-free and illicit-drug-free
46 housing to individuals with substance abuse disorders and individuals with co-occurring mental illnesses
47 and substance abuse disorders that does not include clinical treatment services.

48 B. Every recovery residence shall disclose to each prospective resident whether the recovery
49 residence is a certified recovery residence and, if so, the credentialing entity. If the credentialing entity is
50 the National Alliance for Recovery Residences, the recovery residence shall disclose the level of support
51 provided by the recovery residence. If the credentialing entity is Oxford House, Inc., the recovery
52 residence shall disclose that the recovery residence is self-governed and unstaffed.

53 C. No person shall advertise, represent, or otherwise imply to the public that a recovery residence
54 or other housing facility is a certified recovery residence unless such recovery residence or other housing
55 facility has been certified by the Department in accordance with regulations adopted by the Board. Such
56 regulations may require accreditation by or membership in a credentialing agency as a condition of
57 certification.

58 D. No health care provider or provider licensed pursuant to this chapter who receives public funds
59 and no state agency shall refer a person with substance abuse disorder to a recovery residence unless the
60 recovery residence has been certified by the Department in accordance with regulations adopted by the
61 Board.

62 ~~C-E.~~ The Department shall maintain a list of certified recovery residences on its website and shall
63 provide (i) for each certified recovery residence included on such list, the credentialing entity; (ii) for
64 certified recovery residences for which the National Alliance of Recovery Residences is the credentialing
65 entity, the level of support provided by the recovery residence; and (iii) for certified recovery residences
66 for which Oxford House, Inc. is the credentialing entity, a disclosure that the recovery residence is self-
67 governed and unstaffed.

68 ~~D-F.~~ The Department may institute civil proceedings in the name of the Commonwealth to enjoin
69 any person from violating the provisions of this section and to recover a civil penalty of at least \$200 but
70 no more than \$1,000 for each violation. Such proceedings shall be brought in the general district or circuit
71 court for the county or city in which the violation occurred or where the defendant resides. Civil penalties
72 assessed under this section shall be paid into the Behavioral Health and Developmental Services Trust
73 Fund established in § 37.2-318.

74 **§ 55.1-1201. Applicability of chapter; local authority.**

75 A. This chapter shall apply to all jurisdictions in the Commonwealth and may not be waived or
76 otherwise modified, in whole or in part, by the governing body of any locality or its boards or commissions
77 or other instrumentalities or by the courts of the Commonwealth. Occupancy in a public housing unit or
78 other housing unit that is a dwelling unit is subject to this chapter; however, if the provisions of this chapter

79 are inconsistent with the regulations of the U.S. Department of Housing and Urban Development, such
80 regulations shall control.

81 B. The provisions of this chapter shall apply to occupancy in all single-family and multifamily
82 dwelling units and multifamily dwelling units located in the Commonwealth.

83 C. The following tenancies and occupancies are not residential tenancies under this chapter:

84 1. Residence at a public or private institution, if incidental to detention or the provision of medical,
85 geriatric, educational, counseling, religious, or similar services;

86 2. Occupancy by a member of a fraternal or social organization in the portion of a structure
87 operated for the benefit of the organization;

88 3. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a
89 cooperative;

90 4. Occupancy in a campground as defined in § 35.1-1;

91 5. Occupancy by a tenant who pays no rent pursuant to a rental agreement;

92 6. Occupancy by an employee of a landlord whose right to occupancy in a multifamily dwelling
93 unit is conditioned upon employment in and about the premises or a former employee whose occupancy
94 continues less than 60 days;~~or~~

95 7. Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the
96 occupant is the purchaser or a person who succeeds to his interest; or

97 8. Occupancy in a certified recovery residence as defined in § 37.2-431.1.

98 D. The following provisions apply to occupancy in a hotel, motel, extended stay facility, etc.:

99 1. A guest who is an occupant of a hotel, motel, extended stay facility, vacation residential facility,
100 including those governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.),
101 boardinghouse, or similar transient lodging shall not be construed to be a tenant living in a dwelling unit
102 if such person does not reside in such lodging as his primary residence. Such guest shall be exempt from
103 this chapter, and the innkeeper or property owner, or his agent, shall have the right to use self-help eviction
104 under Virginia law, without the necessity of the filing of an unlawful detainer action in a court of

105 competent jurisdiction and the execution of a writ of eviction issued pursuant to such action, which would
106 otherwise be required under this chapter.

107 2. A hotel, motel, extended stay facility, vacation residential facility, including those governed by
108 the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or similar transient lodging
109 shall be exempt from the provisions of this chapter if overnight sleeping accommodations are furnished
110 to a person for consideration if such person does not reside in such lodging as his primary residence.

111 3. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including
112 those governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or
113 similar transient lodging as his primary residence for 90 consecutive days or less, such lodging shall not
114 be subject to the provisions of this chapter. However, the owner of such lodging establishment shall give
115 a five-day written notice of nonpayment to a person residing in such lodging and, upon the expiration of
116 the five-day period specified in the notice, may exercise self-help eviction if payment in full has not been
117 received.

118 4. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including
119 those governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or
120 similar transient lodging as his primary residence for more than 90 consecutive days or is subject to a
121 written lease for more than 90 days, such lodging shall be subject to the provisions of this chapter.

122 5. Nothing herein shall be construed to preclude the owner of a lodging establishment that uses
123 self-help eviction pursuant to this section from pursuing any civil or criminal remedies under the laws of
124 the Commonwealth.

125 E. Nothing in this chapter shall prohibit a locality from establishing a commission, reconciliatory
126 in nature only, or designating an existing agency, which upon mutual agreement of the parties may mediate
127 conflicts that may arise out of the application of this chapter, nor shall anything in this chapter be deemed
128 to prohibit an ordinance designed to effect compliance with local property maintenance codes. This
129 chapter shall supersede all other local ordinances or regulations concerning landlord and tenant relations
130 and the leasing of residential property.

131 #