

HOUSE BILL NO. 586

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

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

(Patron Prior to Substitute--Delegate VanValkenburg)

A BILL to amend and reenact §§ 36-96.1:1, 36-96.3:1, and 59.1-200 of the Code of Virginia, relating to Virginia Fair Housing Law; use of assistance animal in a dwelling; penalties.

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

**1. That §§ 36-96.1:1, 36-96.3:1, and 59.1-200 of the Code of Virginia are amended and reenacted as follows:**

**§ 36-96.1:1. Definitions.**

For the purposes of this chapter, unless the context requires a different meaning:

"Aggrieved person" means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.

"Complainant" means a person, including the Fair Housing Board, who files a complaint under § 36-96.9.

27 "Conciliation" means the attempted resolution of issues raised by a complainant, or by the  
28 investigation of such complaint, through informal negotiations involving the aggrieved person, the  
29 respondent, their respective authorized representatives and the Fair Housing Board.

30 "Conciliation agreement" means a written agreement setting forth the resolution of the issues in  
31 conciliation.

32 "Disability" means, with respect to a person, (i) a physical or mental impairment that substantially  
33 limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii)  
34 being regarded as having such an impairment. The term does not include current, illegal use of or addiction  
35 to a controlled substance as defined in Virginia or federal law. For the purposes of this chapter, the terms  
36 "disability" and "handicap" shall be interchangeable.

37 "Discriminatory housing practices" means an act that is unlawful under § 36-96.3, 36-96.4, 36-  
38 96.5, or 36-96.6.

39 "Dwelling" means any building, structure, or portion thereof that is occupied as, or designated or  
40 intended for occupancy as, a residence by one or more families, and any vacant land that is offered for  
41 sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

42 "Elderliness" means an individual who has attained his fifty-fifth birthday.

43 "Fair housing testing" means a controlled experiment in which at least two groups of housing  
44 consumers interact with a housing provider under the same or similar circumstances with the purpose of  
45 determining whether a housing provider engages in discriminatory housing practices. For purposes of this  
46 definition, "housing consumer" means a person acting under fictitious persona.

47 "Familial status" means one or more individuals who have not attained the age of 18 years being  
48 domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii)  
49 the designee of such parent or other person having custody with the written permission of such parent or  
50 other person. The term "familial status" also includes any person who is pregnant or is in the process of  
51 securing legal custody of any individual who has not attained the age of 18 years. For purposes of this  
52 section, "in the process of securing legal custody" means having filed an appropriate petition to obtain  
53 legal custody of such minor in a court of competent jurisdiction.

54 "Family" includes a single individual, whether male or female.

55 "Lending institution" includes any bank, savings institution, credit union, insurance company or  
56 mortgage lender.

57 "Major life activities" includes any the following functions: caring for oneself, performing manual  
58 tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

59 "Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. §  
60 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a  
61 veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except  
62 that the support provided by the service member to the individual shall have been provided 180 days  
63 immediately preceding an alleged action that if proven true would constitute unlawful discrimination  
64 under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C.  
65 Chapter 50.

66 "Person" means one or more individuals, whether male or female, corporations, partnerships,  
67 associations, labor organizations, fair housing organizations, civil rights organizations, organizations,  
68 governmental entities, legal representatives, mutual companies, joint stock companies, trusts,  
69 unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

70 "Physical or mental impairment" includes any of the following: (i) any physiological disorder or  
71 condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body  
72 systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs;  
73 cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii)  
74 any mental or psychological disorder, such as an intellectual or developmental disability, organic brain  
75 syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment"  
76 includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral  
77 palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human  
78 immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug  
79 addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.

80 "Respondent" means any person or other entity alleged to have violated the provisions of this  
81 chapter, as stated in a complaint filed under the provisions of this chapter and any other person joined  
82 pursuant to the provisions of § 36-96.9.

83 "Restrictive covenant" means any specification in any instrument affecting title to real property  
84 that purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color,  
85 religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military  
86 status, or disability.

87 "Source of funds" means any source that lawfully provides funds to or on behalf of a renter or  
88 buyer of housing, including any assistance, benefit, or subsidy program, whether such program is  
89 administered by a governmental or nongovernmental entity.

90 "To rent" means to lease, to sublease, to let, or otherwise to grant for consideration the right to  
91 occupy premises not owned by the occupant.

92 **§ 36-96.3:1. Rights and responsibilities with respect to the use of an assistance animal in a**  
93 **dwelling; penalties.**

94 A. A person with a disability, or a person associated with such person, who maintains an assistance  
95 animal in a dwelling shall comply with the rental agreement or any rules and regulations of the property  
96 owner applicable to all residents that do not interfere with an equal opportunity to use and enjoy the  
97 dwelling and any common areas of the premises. Such person shall not be required to pay a pet fee or  
98 deposit or any additional rent to maintain an assistance animal in a dwelling, but shall be responsible for  
99 any physical damages to the dwelling if residents who maintain pets are responsible for such damages in  
100 accordance with such documents or state law. Nothing herein shall be construed to affect any cause of  
101 action against any resident for other damages under the laws of the Commonwealth.

102 B. If a person's disability is obvious or otherwise known to the person receiving a request, or if the  
103 need for a requested accommodation is readily apparent or known to the person receiving a request, the  
104 person receiving a request for reasonable accommodation may not request any additional verification  
105 about the requester's disability. If a person's disability is readily apparent or known to the person receiving

106 the request but the disability-related need is not readily apparent or known, the person receiving the request  
107 may ask for additional verification to evaluate the requester's disability-related need.

108 C. A person with a disability, or a person associated with such person, may submit a request for a  
109 reasonable accommodation to maintain an assistance animal in a dwelling. Subject to subsection B, the  
110 person receiving the request may ask the requester to provide, in writing, reliable supporting  
111 documentation of the disability and the disability-related need for an assistance animal, including  
112 documentation from any from a person with whom the person with a disability requesting the reasonable  
113 accommodation has or has had a therapeutic relationship.

114 D. Subject to subsection B, a person receiving a request for a reasonable accommodation to  
115 maintain an assistance animal in a dwelling shall evaluate the request and any reliable supporting  
116 documentation to verify the disability and the disability-related need for the reasonable accommodation  
117 regarding an assistance animal.

118 E. For purposes of this section, "therapeutic relationship" means the provision of medical care,  
119 program care, or personal care services, in good faith, to the person with a disability by (i) a mental health  
120 service provider as defined in § 54.1-2400.1; (ii) an individual or entity with a valid, unrestricted state  
121 license, certification, or registration to serve persons with disabilities; (iii) a person from a peer support or  
122 similar group that does not charge service recipients a fee or impose any actual or implied financial  
123 requirement and who has actual knowledge about the requester's disability; or (iv) a caregiver, reliable  
124 third party, or government entity with actual knowledge of the requester's disability.

125 F. Except for any person, federal or state agency, or private organization participating in fair  
126 housing testing for the purpose of investigating allegations of housing discrimination, any person who  
127 knowingly and willfully misrepresents himself as needing an assistance animal is guilty of a Class 4  
128 misdemeanor.

129 G. No person shall provide supporting documentation in an attempt to verify the existence of a  
130 disability or disability-related need for a person requesting a reasonable accommodation pursuant to this  
131 section if he does not have a therapeutic relationship with the person requesting the reasonable  
132 accommodation. A violation of this subsection constitutes a prohibited practice under the provisions of §

133 59.1-200 and shall be subject to any and all provisions of the Virginia Consumer Protection Act (§ 59.1-  
134 196 et seq.).

135 **§ 59.1-200. Prohibited practices.**

136 A. The following fraudulent acts or practices committed by a supplier in connection with a  
137 consumer transaction are hereby declared unlawful:

- 138 1. Misrepresenting goods or services as those of another;
- 139 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 140 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or  
141 services, with another;
- 142 4. Misrepresenting geographic origin in connection with goods or services;
- 143 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses,  
144 or benefits;
- 145 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or  
146 model;
- 147 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,  
148 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class,"  
149 without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used,  
150 secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars,  
151 imperfects or "not first class";
- 152 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell  
153 at the price or upon the terms advertised.

154 In any action brought under this subdivision, the refusal by any person, or any employee, agent,  
155 or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms  
156 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall  
157 not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods  
158 or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount

159 of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer  
160 did in fact have or reasonably expected to have at least such quantity or amount for sale;

161 9. Making false or misleading statements of fact concerning the reasons for, existence of, or  
162 amounts of price reductions;

163 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or  
164 parts installed;

165 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice  
166 or bill for merchandise or services previously ordered;

167 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"  
168 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's  
169 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the  
170 goods or services advertised or offered for sale;

171 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of  
172 defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages,  
173 or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or  
174 under federal statutes or regulations;

175 13a. Failing to provide to a consumer, or failing to use or include in any written document or  
176 material provided to or executed by a consumer, in connection with a consumer transaction any statement,  
177 disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R.  
178 Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection  
179 with the consumer transaction;

180 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in  
181 connection with a consumer transaction;

182 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515,  
183 3.2-6516, or 3.2-6519 is a violation of this chapter;

184 16. Failing to disclose all conditions, charges, or fees relating to:

185 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign  
186 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be  
187 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does  
188 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of  
189 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not  
190 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for  
191 the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the  
192 case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund  
193 may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not  
194 apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for  
195 clearance; nor does this subdivision apply to special order purchases where the purchaser has requested  
196 the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the  
197 store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or  
198 lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

199 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the  
200 time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the  
201 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of  
202 sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the  
203 agreement;

204 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in  
205 excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's  
206 overpayment on such account. Suppliers shall give consumers written notice of such credit balances within  
207 60 days of receiving overpayments. If the credit balance information is incorporated into statements of  
208 account furnished consumers by suppliers within such 60-day period, no separate or additional notice is  
209 required;



- 210 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in  
211 connection with a consumer transaction, failing to adhere to the terms and conditions of such an  
212 agreement;
- 213 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
- 214 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1  
215 et seq.);
- 216 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1  
217 et seq.);
- 218 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-  
219 207.17 et seq.);
- 220 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 221 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-  
222 424 et seq.);
- 223 24. Violating any provision of § 54.1-1505;
- 224 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act,  
225 Chapter 17.6 (§ 59.1-207.34 et seq.);
- 226 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 227 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 228 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 229 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et  
230 seq.);
- 231 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40  
232 et seq.);
- 233 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 234 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 235 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 236 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

- 237            35. Using the consumer's social security number as the consumer's account number with the
- 238 supplier, if the consumer has requested in writing that the supplier use an alternate number not associated
- 239 with the consumer's social security number;
- 240            36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 241            37. Violating any provision of § 8.01-40.2;
- 242            38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 243            39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 244            40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 245            41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§
- 246 59.1-525 et seq.);
- 247            42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 248            43. Violating any provision of § 59.1-443.2;
- 249            44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 250            45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 251            46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 252            47. Violating any provision of § 18.2-239;
- 253            48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 254            49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or
- 255 has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 256 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 257 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 258 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 259 products that are used, secondhand or "seconds";
- 260            50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 261            51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 262            52. Violating any provision of § 8.2-317.1;
- 263            53. Violating subsection A of § 9.1-149.1;

264 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential  
265 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective  
266 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in  
267 which defective drywall has been permanently installed or affixed;

268 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while  
269 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-  
270 146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of  
271 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant  
272 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;

273 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

274 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

275 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);

276 59. Violating any provision of subsection E of § 32.1-126;

277 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession  
278 licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

279 61. Violating any provision of § 2.2-2001.5;

280 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

281 63. Violating any provision of § 6.2-312;

282 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

283 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;~~and~~

284 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.); and

285 67. Violating subsection G of § 36-96.3:1.

286 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or  
287 lease solely by reason of the failure of such contract or lease to comply with any other law of the  
288 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation  
289 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such  
290 contract or lease.

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