

SENATE BILL NO. 622

AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

on _____)

(Patron Prior to Substitute--Senator Favola)

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. All recovery residences housing individuals diagnosed with substance use disorder shall be
59 certified by the Department in accordance with regulations adopted by the Board.

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

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

72 **§ 55.1-1201. Applicability of chapter; local authority.**

73 A. This chapter shall apply to all jurisdictions in the Commonwealth and may not be waived or
74 otherwise modified, in whole or in part, by the governing body of any locality or its boards or commissions
75 or other instrumentalities or by the courts of the Commonwealth. Occupancy in a public housing unit or
76 other housing unit that is a dwelling unit is subject to this chapter; however, if the provisions of this chapter
77 are inconsistent with the regulations of the U.S. Department of Housing and Urban Development, such
78 regulations shall control.

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

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

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

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

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

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

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

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

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

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

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

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

