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**HOUSE BILL NO. 839**

Offered January 11, 2006

Prefiled January 10, 2006

*A BILL to amend and reenact § 2.2-2639 of the Code of Virginia, relating to the Human Rights Council; private causes of action; commercial real estate.*

Patron—Frederick (By Request)

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-2639 of the Code of Virginia is amended and reenacted as follows:**

§ 2.2-2639. Causes of action.

A. Nothing in this article or Chapter 39 (§ 2.2-3900 *et seq.*) creates, nor shall it be construed to create, an independent or private cause of action to enforce its provisions, except as specifically provided in subsections B and C.

B. No employer employing more than five but less than 15 persons shall discharge any such employee on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, including lactation, or of age if the employee is 40 years old or older. For the purposes of this section, "lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

C. The employee may bring an action in a general district or circuit court having jurisdiction over the employer who allegedly discharged the employee in violation of this section. Any such action shall be brought within 300 days from the date of the discharge or, if the employee has filed a complaint with the Council or a local human rights or human relations agency or commission within 300 days of the discharge, such action shall be brought within 90 days from the date that the Council or a local human rights or human relations agency or commission has rendered a final disposition on the complaint. The court may award up to 12 months' back pay with interest at the judgment rate as provided in § 6.1-330.54. However, if the court finds that either party engaged in tactics to delay resolution of the complaint, it may (i) diminish the award or (ii) award back pay to the date of judgment without regard to the 12-month limitation.

In any case where the employee prevails, the court shall award attorneys' fees from the amount recovered, not to exceed 25 percent of the back pay awarded. The court shall not award other damages, compensatory or punitive, nor shall it order reinstatement of the employee.

C. No person shall discriminate on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, or of age in the sale or lease of commercial real estate not covered by the Fair Housing Law (§ 36-96.1 *et seq.*). Any person aggrieved by such unlawful discrimination may bring an action in a general district or circuit court where the commercial real estate is located. Any such action shall be brought within 300 days from the date of unlawful discriminatory action or, if the aggrieved person has filed a complaint with the Council or a local human rights or human relations agency or commission within 300 days of the unlawful discriminatory action, the action shall be brought within 90 days from the date that the Council or a local human rights or human relations agency or commission has rendered a final disposition on the complaint.

Upon proof being made, at any suit on a complaint under this subsection that there has been such discrimination, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section.

In any case where the petitioner prevails, the court shall award attorney fees and costs. The court may award other damages, compensatory or punitive, as it deems appropriate.

D. Causes of action based upon the public policies reflected in this article or Chapter 39 (§ 2.2-3900 *et seq.*) shall be exclusively limited to those actions, procedures and remedies, if any, afforded by applicable federal or state civil rights statutes or local ordinances. Nothing in this section or § 2.2-3900 shall be deemed to alter, supersede, or otherwise modify the authority of the Council or of any local human rights or human relations commissions established pursuant to § 15.2-853 or 15.2-965 or subject to the provisions of § 2.2-2638.

INTRODUCED

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