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**HOUSE BILL NO. 1280**

Offered January 20, 2010

*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.*

Patrons—McClellan, Abbott, Alexander, BaCote, Brink, Bulova, Carr, Hope, James, Knight, Lewis, McQuinn, Morrissey, Oder, Scott, J.M., Sickles, Surovell and Tyler

Referred to Committee on General Laws

**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:

1. To refuse to sell or rent after the making of a bona fide offer or to 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, or familial status;

2. To 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, or familial status;

3. To 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 based on race, color, religion, national origin, sex, elderliness, familial status, or handicap. 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 which shall not be overcome by a general disclaimer. However, reference alone to places of worship including, but not limited to, churches, synagogues, temples, or mosques in any such notice, statement or advertisement shall not be prima facie evidence of an illegal preference;

4. To represent to any person because of race, color, religion, national origin, sex, elderliness, familial status, or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

5. To deny any person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership, or participation because of race, color, religion, national origin, sex, elderliness, familial status, or handicap;

6. To include in any transfer, sale, rental, or lease of housing, any restrictive covenant that discriminates because of race, color, religion, national origin, sex, elderliness, familial status, or handicap or for any person to honor or exercise, or attempt to honor or exercise any such discriminatory covenant pertaining to housing;

7. To induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, elderliness, familial status, or handicap;

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

9. To 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 connection therewith because of a handicap of (i) that person, (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented or made available, or (iii) any person associated with that buyer or renter.

B. *It shall be an unlawful discriminatory housing practice for any political jurisdiction or its employees or appointed commissions to discriminate in the application of local land use ordinances or guidelines, or in the permitting of housing developments, on the basis of race, color, religion, national origin, sex, elderliness, familial status, handicap, or because the housing development contains or is expected to contain affordable housing units occupied or intended for occupancy by families or individuals with incomes at or below 80 percent of the median income of the area where the housing development is located or is proposed to be located.*

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58 C. For the purposes of this section, discrimination includes: (i) a refusal to permit, at the expense of  
59 the handicapped person, reasonable modifications of existing premises occupied or to be occupied by  
60 any person if such modifications may be necessary to afford such person full enjoyment of the premises;  
61 except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition  
62 permission for a modification on the renter's agreeing to restore the interior of the premises to the  
63 condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make  
64 reasonable accommodations in rules, practices, policies, or services when such accommodations may be  
65 necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection  
66 with the design and construction of covered multi-family dwellings for first occupancy after March 13,  
67 1991, a failure to design and construct dwellings in such a manner that:

68 1. The public use and common use areas of the dwellings are readily accessible to and usable by  
69 handicapped persons;

70 2. All the doors designed to allow passage into and within all premises are sufficiently wide to allow  
71 passage by handicapped persons in wheelchairs; and

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

79 *CD.* Compliance with the appropriate requirements of the American National Standards for Building  
80 and Facilities (commonly cited as "ANSI A117.1") or with any other standards adopted as part of  
81 regulations promulgated by HUD providing accessibility and usability for physically handicapped people  
82 shall be deemed to satisfy the requirements of subdivision B C 3.

83 *DE.* Nothing in this chapter shall be construed to invalidate or limit any Virginia law or regulation  
84 which requires dwellings to be designed and constructed in a manner that affords handicapped persons  
85 greater access than is required by this chapter.

86 § 36-96.17. Civil action by Attorney General; matters involving the legality of any local zoning or  
87 other land use ordinance; pattern or practice cases; or referral of conciliation agreement for enforcement.

88 A. If the Board determines, after consultation with the Office of the Attorney General, that an  
89 alleged discriminatory housing practice involves (i) the legality of any local zoning or land use  
90 ordinance or (ii) *activity prescribed in subsection B of § 36-96.3*, instead of issuing a charge, the Board  
91 shall immediately refer the matter to the Attorney General for civil action in the appropriate circuit court  
92 for appropriate relief. A civil action under this subsection shall be commenced no later than the  
93 expiration of eighteen months after the date of the occurrence or the termination of the alleged  
94 discriminatory housing practice.

95 B. Whenever the Attorney General has reasonable cause to believe that any person or group of  
96 persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights  
97 granted by this chapter, or that any group of persons has been denied any of the rights granted by this  
98 chapter and such denial raises an issue of general public importance, the Attorney General may  
99 commence a civil action in the appropriate circuit court for appropriate relief.

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

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

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

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

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

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

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

118 F. Upon timely application, any person may intervene in a civil action commenced by the Attorney  
119 General under subsection A, B or C which involves an alleged discriminatory housing practice with

120 respect to which such person is an aggrieved person or a party to a conciliation agreement. The court  
121 may grant such appropriate relief to any such intervening party as is authorized to be granted to a  
122 plaintiff in a civil action under § 36-96.18.

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