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HOUSE BILL NO. 735

Offered January 13, 2010

Prefiled January 12, 2010

A BILL to amend and reenact §§ 36-96.17 and 36-96.18 of the Code of Virginia, relating to the Virginia Fair Housing Law; civil penalties for violation.

Patrons—Albo, Carrico and Cosgrove

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 36-96.17 and 36-96.18 of the Code of Virginia are amended and reenacted as follows:**

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

A. If the Board determines, after consultation with the Office of the Attorney General, that an alleged discriminatory housing practice involves the legality of any local zoning or land use ordinance, instead of issuing a charge, the Board shall immediately refer the matter to the Attorney General for civil action in the appropriate circuit court for appropriate relief. A civil action under this subsection shall be commenced no later than the expiration of eighteen months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

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

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

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

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

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

2. Assess a civil penalty against the respondent (i) in an amount not exceeding \$50,000 for a first violation; and (ii) in an amount not exceeding \$100,000 for any subsequent violation, *which amount shall be paid into the State Literary Fund.*

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

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

F. Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection A, B or C which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a party to a conciliation agreement. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under § 36-96.18.

§ 36-96.18. Civil action; enforcement by private parties.

A. An aggrieved person may commence a civil action in an appropriate United States district court or state court not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this chapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

B. An aggrieved person may commence a civil action under ~~§ 36-96.18~~ subsection A no later than 180 days after the conclusion of the administrative process with respect to a complaint or charge, or not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, whichever is later. This subsection shall not apply to actions arising from a breach of a

59 conciliation agreement. An aggrieved person may commence a civil action under this section whether or
60 not a complaint has been filed under § 36-96.9 and without regard to the status of any such complaint.
61 If the Board or a federal agency has obtained a conciliation agreement with the consent of an aggrieved
62 person, no action may be filed under this section by such aggrieved person with respect to the alleged
63 discriminatory housing practice which forms the basis for such complaint except for the purpose of
64 enforcing the terms of such an agreement.

65 C. In a civil action under subsection A, if the court or jury finds that a discriminatory housing
66 practice has occurred or is about to occur, the court or jury may ~~award to the plaintiff, as the prevailing~~
67 ~~party, compensatory and punitive damages, without limitation otherwise imposed by state law, and the~~
68 *assess a civil penalty against the defendant (i) in an amount not exceeding \$50,000 for a first violation;*
69 *and (ii) in an amount not exceeding \$100,000 for any subsequent violation, which amount shall be paid*
70 *into the State Literary Fund. In addition, the court may award to the plaintiff* reasonable attorney's fees
71 and costs, and subject to subsection D, may grant as relief, any permanent or temporary injunction,
72 temporary restraining order, or other order, including an order enjoining the defendant from engaging in
73 such practice or order such affirmative action as may be appropriate.

74 D. Relief granted under subsection C shall not affect any contract, sale, encumbrance, or lease
75 consummated before the granting of such relief and involving bona fide purchasers, encumbrancer or
76 tenant, without actual notice of the filing of a complaint with the Board or civil action under this
77 chapter.

78 E. Upon timely application, the Attorney General may intervene in such civil action, if the Attorney
79 General certifies that the case is of general public importance. Upon intervention, the Attorney General
80 may obtain such relief as would be available to the private party under subsection C.