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HOUSE BILL NO. 2129

Offered January 11, 2017

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A *BILL to amend and reenact §§ 2.2-3004, 2.2-3900 through 2.2-3903, 15.2-853, 15.2-965, 15.2-1507, 15.2-1604, 22.1-306, 36-96.1 through 36-96.4, and 55-248.47 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.2-2901.1, 15.2-1500.1, and 22.1-295.2, relating to Virginia Human Rights Act; public employment and housing; prohibited discrimination; sexual orientation.*

Patrons—Levine, Boysko, Herring, Hope, Kory, Krizek, Lindsey, Mullin, Plum, Price, Rasoul and Simon; Senator: McClellan

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3004, 2.2-3900 through 2.2-3903, 15.2-853, 15.2-965, 15.2-1507, 15.2-1604, 22.1-306, 36-96.1 through 36-96.4, and 55-248.47 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-2901.1, 15.2-1500.1, and 22.1-295.2 as follows:

§ 2.2-2901.1. Employment discrimination prohibited.

No agency, institution, board, bureau, commission, council, or instrumentality of the Commonwealth shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, or status as a veteran.

For the purposes of this section, "sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression. "Sexual orientation" shall not include any person's attraction toward persons with whom sexual conduct would be illegal due to the age of the parties.

§ 2.2-3004. Grievances qualifying for a grievance hearing; grievance hearing generally.

A. A grievance qualifying for a hearing shall involve a complaint or dispute by an employee relating to the following adverse employment actions in which the employee is personally involved, including but not limited to (i) formal disciplinary actions, including suspensions, demotions, transfers and assignments, and dismissals resulting from formal discipline or unsatisfactory job performance; (ii) the application of all written personnel policies, procedures, rules and regulations where it can be shown that policy was misapplied or unfairly applied; (iii) discrimination on the basis of race, color, religion, political affiliation, age, disability, national origin, sex, pregnancy, childbirth or related medical conditions, sexual orientation as defined in § 2.2-2901.1, or status as a veteran; (iv) arbitrary or capricious performance evaluations; (v) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement; and (vi) retaliation for exercising any right otherwise protected by law.

B. Management reserves the exclusive right to manage the affairs and operations of state government. Management shall exercise its powers with the highest degree of trust. In any employment matter that management precludes from proceeding to a grievance hearing, management's response, including any appropriate remedial actions, shall be prompt, complete, and fair.

C. Complaints relating solely to the following issues shall not proceed to a hearing: (i) establishment and revision of wages, salaries, position classifications, or general benefits; (ii) work activity accepted by the employee as a condition of employment or which may reasonably be expected to be a part of the job content; (iii) contents of ordinances, statutes or established personnel policies, procedures, and rules and regulations; (iv) methods, means, and personnel by which work activities are to be carried on; (v) termination, layoff, demotion, or suspension from duties because of lack of work, reduction in work force, or job abolition; (vi) hiring, promotion, transfer, assignment, and retention of employees within the agency; and (vii) relief of employees from duties of the agency in emergencies.

D. Except as provided in subsection A of § 2.2-3003, decisions regarding whether a grievance qualifies for a hearing shall be made in writing by the agency head or his designee within five workdays of the employee's request for a hearing. A copy of the decision shall be sent to the employee. The employee may appeal the denial of a hearing by the agency head to the Director of the Department of

58 Human Resource Management (the Director). Upon receipt of an appeal, the agency shall transmit the
 59 entire grievance record to the Department of Human Resource Management within five workdays. The
 60 Director shall render a decision on whether the employee is entitled to a hearing upon the grievance
 61 record and other probative evidence.

62 E. The hearing pursuant to § 2.2-3005 shall be held in the locality in which the employee is
 63 employed or in any other locality agreed to by the employee, employer, and hearing officer. The
 64 employee and the agency may be represented by legal counsel or a lay advocate, the provisions of §
 65 54.1-3904 notwithstanding. The employee and the agency may call witnesses to present testimony and
 66 be cross-examined.

67 **§ 2.2-3900. Short title; declaration of policy.**

68 A. This chapter shall be known and cited as the Virginia Human Rights Act.

69 B. It is the policy of the Commonwealth to:

70 1. Safeguard all individuals within the Commonwealth from unlawful discrimination because of race,
 71 color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital
 72 status, *sexual orientation*, or disability, in places of public accommodation, including educational
 73 institutions and in real estate transactions; ~~in employment; preserve the public safety, health and general~~
 74 ~~welfare; and further the interests, rights and privileges of individuals within the Commonwealth; and~~

75 2. *Safeguard all individuals within the Commonwealth from unlawful discrimination because of race,*
 76 *color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital*
 77 *status, disability, sexual orientation, or status as a veteran in employment;*

78 3. *Preserve the public safety, health, and general welfare;*

79 4. *Further the interests, rights, and privileges of individuals within the Commonwealth; and*

80 5. Protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

81 **§ 2.2-3901. Unlawful discriminatory practice and sexual orientation and gender discrimination**
 82 **defined.**

83 Conduct that violates any Virginia or federal statute or regulation governing discrimination on the
 84 basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions,
 85 age, marital status, *sexual orientation, status as a veteran*, or disability shall be an "unlawful
 86 discriminatory practice" for the purposes of this chapter.

87 The terms "because of sex or gender" or "on the basis of sex or gender" or terms of similar import
 88 when used in reference to discrimination in the Code and acts of the General Assembly include because
 89 of or on the basis of pregnancy, childbirth or related medical conditions. Women affected by pregnancy,
 90 childbirth or related medical conditions shall be treated the same for all purposes as persons not so
 91 affected but similar in their abilities or disabilities.

92 *As used in this chapter, "sexual orientation" means a person's actual or perceived heterosexuality,*
 93 *bisexuality, homosexuality, or gender identity or expression. "Sexual orientation" shall not include any*
 94 *person's attraction toward persons with whom sexual conduct would be illegal due to the age of the*
 95 *parties.*

96 **§ 2.2-3902. Construction of chapter; other programs to aid persons with disabilities, minors and**
 97 **the elderly.**

98 The provisions of this chapter shall be construed liberally for the accomplishment of its policies.
 99 Nothing contained in this chapter shall be deemed to repeal, supersede or expand upon any of the
 100 provisions of any other state or federal law relating to discrimination because of race, color, religion,
 101 national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, *sexual*
 102 *orientation, status as a veteran*, or disability.

103 Nothing in this chapter shall prohibit or alter any program, service, facility, school, or privilege that
 104 is afforded, oriented or restricted to a person because of disability or age from continuing to habilitate,
 105 rehabilitate, or accommodate that person.

106 In addition, nothing in this chapter shall be construed to affect any governmental program, law or
 107 activity differentiating between persons on the basis of age over the age of 18 years (i) where the
 108 differentiation is reasonably necessary to normal operation or the activity is based upon reasonable
 109 factors other than age or (ii) where the program, law or activity constitutes a legitimate exercise of
 110 powers of the Commonwealth for the general health, safety and welfare of the population at large.

111 Complaints filed with the Division of Human Rights of the Department of Law (the Division) in
 112 accordance with § 2.2-520 alleging unlawful discriminatory practice under a Virginia statute that is
 113 enforced by a Virginia agency shall be referred to that agency. The Division may investigate complaints
 114 alleging an unlawful discriminatory practice under a federal statute or regulation and attempt to resolve
 115 it through conciliation. Unsolved complaints shall thereafter be referred to the federal agency with
 116 jurisdiction over the complaint. Upon such referral, the Division shall have no further jurisdiction over
 117 the complaint. The Division shall have no jurisdiction over any complaint filed under a local ordinance
 118 adopted pursuant to § 15.2-965.

119 **§ 2.2-3903. Causes of action not created.**

120 A. Nothing in this chapter or in Article 4 (§ 2.2-520 et seq.) of Chapter 5 creates, nor shall it be
 121 construed to create, an independent or private cause of action to enforce its provisions, except as
 122 specifically provided in subsections B and C.

123 B. No employer employing more than five but less than 15 persons shall discharge any such
 124 employee on the basis of race, color, religion, national origin, sex, *sexual orientation*, pregnancy,
 125 childbirth or related medical conditions, including lactation. No employer employing more than five but
 126 less than 20 persons shall discharge any such employee on the basis of age if the employee is 40 years
 127 of age or older. For the purposes of this section, "lactation" means a condition that may result in the
 128 feeding of a child directly from the breast or the expressing of milk from the breast.

129 C. The employee may bring an action in a general district or circuit court having jurisdiction over
 130 the employer who allegedly discharged the employee in violation of this section. Any such action shall
 131 be brought within 300 days from the date of the discharge or, if the employee has filed a complaint
 132 with the Division of Human Rights of the Department of Law or a local human rights or human
 133 relations agency or commission within 300 days of the discharge, such action shall be brought within 90
 134 days from the date that the Division or a local human rights or human relations agency or commission
 135 has rendered a final disposition on the complaint. The court may award up to 12 months' back pay with
 136 interest at the judgment rate as provided in § 6.2-302. However, if the court finds that either party
 137 engaged in tactics to delay resolution of the complaint, it may (i) diminish the award or (ii) award back
 138 pay to the date of judgment without regard to the 12-month limitation.

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

142 D. Causes of action based upon the public policies reflected in this chapter shall be exclusively
 143 limited to those actions, procedures, and remedies, if any, afforded by applicable federal or state civil
 144 rights statutes or local ordinances. Nothing in this section or § 2.2-3900 shall be deemed to alter,
 145 supersede, or otherwise modify the authority of the Division or of any local human rights or human
 146 relations commissions established pursuant to § 15.2-853 or 15.2-965.

147 **§ 15.2-853. Commission on human rights; human rights ordinance.**

148 A county may enact an ordinance prohibiting discrimination in housing, real estate transactions,
 149 employment, public accommodations, credit and education on the basis of race, color, religion, sex,
 150 pregnancy, childbirth or related medical conditions, national origin, age, marital status, *sexual*
 151 *orientation*, or disability. The board may enact an ordinance establishing a local commission on human
 152 rights which shall have the following powers and duties:

- 153 1. To promote policies to ensure that all persons be afforded equal opportunity;
- 154 2. To serve as an agency for receiving, investigating, holding hearings, processing and assisting in
 155 the voluntary resolution of complaints regarding discriminatory practices occurring within the county;
 156 and
- 157 3. With the approval of the county attorney, to seek, through appropriate enforcement authorities,
 158 prevention of or relief from a violation of any ordinance prohibiting discrimination and to exercise such
 159 other powers and duties as provided in this article. However, the commission shall have no power itself
 160 to issue subpoenas, award damages or grant injunctive relief.

161 For the purposes of this article, "person":

162 "*Person*" means one or more individuals, labor unions, partnerships, corporations, associations, legal
 163 representatives, mutual companies, joint-stock companies, trusts or unincorporated organizations.

164 "*Sexual orientation*" means a person's actual or perceived heterosexuality, bisexuality, homosexuality,
 165 or gender identity or expression. "*Sexual orientation*" shall not include any person's attraction toward
 166 persons with whom sexual conduct would be illegal due to the age of the parties.

167 **§ 15.2-965. Human rights ordinances and commissions.**

168 A. Any locality may enact an ordinance, not inconsistent with nor more stringent than any applicable
 169 state law, prohibiting discrimination in housing, employment, public accommodations, credit, and
 170 education on the basis of race, color, religion, sex, pregnancy, childbirth or related medical conditions,
 171 national origin, age, marital status, *sexual orientation*, or disability.

172 B. The locality may enact an ordinance establishing a local commission on human rights which shall
 173 have the powers and duties granted by the Virginia Human Rights Act (§ 2.2-3900 et seq.).

174 For the purposes of this section, "*sexual orientation*" means a person's actual or perceived
 175 heterosexuality, bisexuality, homosexuality, or gender identity or expression. "*Sexual orientation*" shall
 176 not include any person's attraction toward persons with whom sexual conduct would be illegal due to
 177 the age of the parties.

178 **§ 15.2-1500.1. Employment discrimination prohibited.**

179 No department, office, board, commission, agency, or instrumentality of local government shall
 180 discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy,

181 *childbirth or related medical conditions, age, marital status, disability, sexual orientation, or status as a*
 182 *veteran.*

183 *For the purposes of this section, "sexual orientation" means a person's actual or perceived*
 184 *heterosexuality, bisexuality, homosexuality, or gender identity or expression. "Sexual orientation" shall*
 185 *not include any person's attraction toward persons with whom sexual conduct would be illegal due to*
 186 *the age of the parties.*

187 **§ 15.2-1507. Provision of grievance procedure; training programs.**

188 A. If a local governing body fails to adopt a grievance procedure required by § 15.2-1506 or fails to
 189 certify it as provided in this section, the local governing body shall be deemed to have adopted a
 190 grievance procedure which is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title
 191 2.2 and any regulations adopted pursuant thereto for so long as the locality remains in noncompliance.
 192 The locality shall provide its employees with copies of the applicable grievance procedure upon request.
 193 The term "grievance" as used herein shall not be interpreted to mean negotiations of wages, salaries, or
 194 fringe benefits.

195 Each grievance procedure, and each amendment thereto, in order to comply with this section, shall
 196 be certified in writing to be in compliance by the city, town or county attorney, and the chief
 197 administrative officer of the locality, and such certification filed with the clerk of the circuit court
 198 having jurisdiction in the locality in which the procedure is to apply. Local government grievance
 199 procedures in effect as of July 1, 1991, shall remain in full force and effect for 90 days thereafter,
 200 unless certified and filed as provided above within a shorter time period.

201 Each grievance procedure shall include the following components and features:

202 1. Definition of grievance. A grievance shall be a complaint or dispute by an employee relating to
 203 his employment, including but not necessarily limited to (i) disciplinary actions, including dismissals,
 204 disciplinary demotions, and suspensions, provided that dismissals shall be grievable whenever resulting
 205 from formal discipline or unsatisfactory job performance; (ii) the application of personnel policies,
 206 procedures, rules and regulations, including the application of policies involving matters referred to in
 207 subdivision 2 (iii) below; (iii) discrimination on the basis of race, color, creed, religion, political
 208 affiliation, age, disability, national origin ~~or~~, sex, *pregnancy, childbirth or related medical conditions,*
 209 *sexual orientation as defined in § 15.2-1500.1, or status as a veteran;* and (iv) acts of retaliation as the
 210 result of the use of or participation in the grievance procedure or because the employee has complied
 211 with any law of the United States or of the Commonwealth, has reported any violation of such law to a
 212 governmental authority, has sought any change in law before the Congress of the United States or the
 213 General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement. For the
 214 purposes of clause (iv) there shall be a rebuttable presumption that increasing the penalty that is the
 215 subject of the grievance at any level of the grievance shall be an act of retaliation.

216 2. Local government responsibilities. Local governments shall retain the exclusive right to manage
 217 the affairs and operations of government. Accordingly, the following complaints are nongrievable: (i)
 218 establishment and revision of wages or salaries, position classification or general benefits; (ii) work
 219 activity accepted by the employee as a condition of employment or work activity which may reasonably
 220 be expected to be a part of the job content; (iii) the contents of ordinances, statutes or established
 221 personnel policies, procedures, rules and regulations; (iv) failure to promote except where the employee
 222 can show that established promotional policies or procedures were not followed or applied fairly; (v) the
 223 methods, means and personnel by which work activities are to be carried on; (vi) except where such
 224 action affects an employee who has been reinstated within the previous six months as the result of the
 225 final determination of a grievance, termination, layoff, demotion or suspension from duties because of
 226 lack of work, reduction in work force, or job abolition; (vii) the hiring, promotion, transfer, assignment
 227 and retention of employees within the local government; and (viii) the relief of employees from duties
 228 of the local government in emergencies. In any grievance brought under the exception to clause (vi) of
 229 ~~this subdivision~~, the action shall be upheld upon a showing by the local government that: (i) there was a
 230 valid business reason for the action and (ii) the employee was notified of the reason in writing prior to
 231 the effective date of the action.

232 3. Coverage of personnel.

233 a. Unless otherwise provided by law, all nonprobationary local government permanent full-time and
 234 part-time employees are eligible to file grievances with the following exceptions:

235 (1) Appointees of elected groups or individuals;

236 (2) Officials and employees who by charter or other law serve at the will or pleasure of an
 237 appointing authority;

238 (3) Deputies and executive assistants to the chief administrative officer of a locality;

239 (4) Agency heads or chief executive officers of government operations;

240 (5) Employees whose terms of employment are limited by law;

241 (6) Temporary, limited term and seasonal employees;

242 (7) Law-enforcement officers as defined in Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 whose

243 grievance is subject to the provisions of Chapter 10.1 and who have elected to proceed pursuant to those
 244 provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to
 245 any other existing procedure in the resolution of his grievance.

246 b. Notwithstanding the exceptions set forth in subdivision 3 a above, local governments, at their sole
 247 discretion, may voluntarily include employees in any of the excepted categories within the coverage of
 248 their grievance procedures.

249 c. The chief administrative officer of each local government, or his designee, shall determine the
 250 officers and employees excluded from the grievance procedure, and shall be responsible for maintaining
 251 an up-to-date list of the affected positions.

252 4. Grievance procedure availability and coverage for employees of community services boards,
 253 redevelopment and housing authorities, and regional housing authorities. Employees of community
 254 services boards, redevelopment and housing authorities created pursuant to § 36-4, and regional housing
 255 authorities created pursuant to § 36-40 shall be included in (i) a local governing body's grievance
 256 procedure or personnel system, if agreed to by the department, board, or authority and the locality or (ii)
 257 a grievance procedure established and administered by the department, board or authority which is
 258 consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations
 259 promulgated pursuant thereto. If a department, board or authority fails to establish a grievance procedure
 260 pursuant to clause (i) or (ii), it shall be deemed to have adopted a grievance procedure which is
 261 consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations
 262 adopted pursuant thereto for so long as it remains in noncompliance.

263 5. General requirements for procedures.

264 a. Each grievance procedure shall include not more than four steps for airing complaints at
 265 successively higher levels of local government management, and a final step providing for a panel
 266 hearing or a hearing before an administrative hearing officer upon the agreement of both parties.

267 b. Grievance procedures shall prescribe reasonable and specific time limitations for the grievant to
 268 submit an initial complaint and to appeal each decision through the steps of the grievance procedure.

269 c. Nothing contained in this section shall prohibit a local government from granting its employees
 270 rights greater than those contained herein, provided such grant does not exceed or violate the general
 271 law or public policy of the Commonwealth.

272 6. Time periods.

273 a. It is intended that speedy attention to employee grievances be promoted, consistent with the ability
 274 of the parties to prepare for a fair consideration of the issues of concern.

275 b. The time for submitting an initial complaint shall not be less than 20 calendar days after the event
 276 giving rise to the grievance, but local governments may, at their option, allow a longer time period.

277 c. Limits for steps after initial presentation of grievance shall be the same or greater for the grievant
 278 than the time which is allowed for local government response in each comparable situation.

279 d. Time frames may be extended by mutual agreement of the local government and the grievant.

280 7. Compliance.

281 a. After the initial filing of a written grievance, failure of either party to comply with all substantial
 282 procedural requirements of the grievance procedure, including the panel or administrative hearing,
 283 without just cause shall result in a decision in favor of the other party on any grievable issue, provided
 284 the party not in compliance fails to correct the noncompliance within five workdays of receipt of written
 285 notification by the other party of the compliance violation. Such written notification by the grievant shall
 286 be made to the chief administrative officer, or his designee.

287 b. The chief administrative officer, or his designee, at his option, may require a clear written
 288 explanation of the basis for just cause extensions or exceptions. The chief administrative officer, or his
 289 designee, shall determine compliance issues. Compliance determinations made by the chief
 290 administrative officer shall be subject to judicial review by filing petition with the circuit court within
 291 30 days of the compliance determination.

292 8. Management steps.

293 a. The first step shall provide for an informal, initial processing of employee complaints by the
 294 immediate supervisor through a nonwritten, discussion format.

295 b. Management steps shall provide for a review with higher levels of local government authority
 296 following the employee's reduction to writing of the grievance and the relief requested on forms
 297 supplied by the local government. Personal face-to-face meetings are required at all of these steps.

298 c. With the exception of the final management step, the only persons who may normally be present
 299 in the management step meetings are the grievant, the appropriate local government official at the level
 300 at which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be
 301 present only while actually providing testimony. At the final management step, the grievant, at his
 302 option, may have present a representative of his choice. If the grievant is represented by legal counsel,
 303 local government likewise has the option of being represented by counsel.

304 9. Qualification for panel or administrative hearing.

305 a. Decisions regarding grievability and access to the procedure shall be made by the chief
306 administrative officer of the local government, or his designee, at any time prior to the panel hearing, at
307 the request of the local government or grievant, within 10 calendar days of the request. No city, town,
308 or county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of
309 grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative
310 officer of the local government, or his designee, may be appealed to the circuit court having jurisdiction
311 in the locality in which the grievant is employed for a hearing on the issue of whether the grievance
312 qualifies for a panel hearing. Proceedings for review of the decision of the chief administrative officer or
313 his designee shall be instituted by the grievant by filing a notice of appeal with the chief administrative
314 officer within 10 calendar days from the date of receipt of the decision and giving a copy thereof to all
315 other parties. Within 10 calendar days thereafter, the chief administrative officer or his designee shall
316 transmit to the clerk of the court to which the appeal is taken: a copy of the decision of the chief
317 administrative officer, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished
318 to the court shall also be furnished to the grievant. The failure of the chief administrative officer or his
319 designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the
320 grievant, may issue a writ of certiorari requiring the chief administrative officer to transmit the record on
321 or before a certain date.

322 b. Within 30 days of receipt of such records by the clerk, the court, sitting without a jury, shall hear
323 the appeal on the record transmitted by the chief administrative officer or his designee and such
324 additional evidence as may be necessary to resolve any controversy as to the correctness of the record.
325 The court, in its discretion, may receive such other evidence as the ends of justice require. The court
326 may affirm the decision of the chief administrative officer or his designee, or may reverse or modify the
327 decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the
328 conclusion of the hearing. The decision of the court is final and is not appealable.

329 10. Final hearings.

330 a. Qualifying grievances shall advance to either a panel hearing or a hearing before an administrative
331 hearing officer, as set forth in the locality's grievance procedure, as described below:

332 (1) If the grievance procedure adopted by the local governing body provides that the final step shall
333 be an impartial panel hearing, the panel may, with the exception of those local governments covered by
334 subdivision a (2) of this subsection, consist of one member appointed by the grievant, one member
335 appointed by the agency head and a third member selected by the first two. In the event that agreement
336 cannot be reached as to the final panel member, the chief judge of the circuit court of the jurisdiction
337 wherein the dispute arose shall select the third panel member. The panel shall not be composed of any
338 persons having direct involvement with the grievance being heard by the panel, or with the complaint or
339 dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant,
340 persons residing in the same household as the grievant and the following relatives of a participant in the
341 grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent,
342 child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct
343 involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee
344 of the attorney shall serve as a panel member.

345 (2) If the grievance procedure adopted by the local governing body provides for the final step to be
346 an impartial panel hearing, local governments may retain the panel composition method previously
347 approved by the Department of Human Resource Management and in effect as of the enactment of this
348 statute. Modifications to the panel composition method shall be permitted with regard to the size of the
349 panel and the terms of office for panel members, so long as the basic integrity and independence of
350 panels are maintained. As used in this section, the term "panel" shall include all bodies designated and
351 authorized to make final and binding decisions.

352 (3) When a local government elects to use an administrative hearing officer rather than a
353 three-person panel for the final step in the grievance procedure, the administrative hearing officer shall
354 be appointed by the Executive Secretary of the Supreme Court of Virginia. The appointment shall be
355 made from the list of administrative hearing officers maintained by the Executive Secretary pursuant to
356 § 2.2-4024 and shall be made from the appropriate geographical region on a rotating basis. In the
357 alternative, the local government may request the appointment of an administrative hearing officer from
358 the Department of Human Resource Management. If a local government elects to use an administrative
359 hearing officer, it shall bear the expense of such officer's services.

360 (4) When the local government uses a panel in the final step of the procedure, there shall be a
361 chairperson of the panel and, when panels are composed of three persons (one each selected by the
362 respective parties and the third from an impartial source), the third member shall be the chairperson.

363 (5) Both the grievant and the respondent may call upon appropriate witnesses and be represented by
364 legal counsel or other representatives at the hearing. Such representatives may examine, cross-examine,
365 question and present evidence on behalf of the grievant or respondent before the panel or hearing officer

366 without being in violation of the provisions of § 54.1-3904.

367 (6) The decision of the panel or hearing officer shall be final and binding and shall be consistent
368 with provisions of law and written policy.

369 (7) The question of whether the relief granted by a panel or hearing officer is consistent with written
370 policy shall be determined by the chief administrative officer of the local government, or his designee,
371 unless such person has a direct personal involvement with the event or events giving rise to the
372 grievance, in which case the decision shall be made by the attorney for the Commonwealth of the
373 jurisdiction in which the grievance is pending.

374 b. Rules for panel and administrative hearings.

375 Unless otherwise provided by law, local governments shall adopt rules for the conduct of panel or
376 administrative hearings as a part of their grievance procedures, or shall adopt separate rules for such
377 hearings. Rules which are promulgated shall include, but need not be limited to the following
378 provisions:

379 (1) That neither the panels nor the hearing officer have authority to formulate policies or procedures
380 or to alter existing policies or procedures;

381 (2) That panels and the hearing officer have the discretion to determine the propriety of attendance at
382 the hearing of persons not having a direct interest in the hearing, and, at the request of either party, the
383 hearing shall be private;

384 (3) That the local government provide the panel or hearing officer with copies of the grievance
385 record prior to the hearing, and provide the grievant with a list of the documents furnished to the panel
386 or hearing officer, and the grievant and his attorney, at least 10 days prior to the scheduled hearing,
387 shall be allowed access to and copies of all relevant files intended to be used in the grievance
388 proceeding;

389 (4) That panels and hearing officers have the authority to determine the admissibility of evidence
390 without regard to the burden of proof, or the order of presentation of evidence, so long as a full and
391 equal opportunity is afforded to all parties for the presentation of their evidence;

392 (5) That all evidence be presented in the presence of the panel or hearing officer and the parties,
393 except by mutual consent of the parties;

394 (6) That documents, exhibits and lists of witnesses be exchanged between the parties or hearing
395 officer in advance of the hearing;

396 (7) That the majority decision of the panel or the decision of the hearing officer, acting within the
397 scope of its or his authority, be final, subject to existing policies, procedures and law;

398 (8) That the panel or hearing officer's decision be provided within a specified time to all parties; and

399 (9) Such other provisions as may facilitate fair and expeditious hearings, with the understanding that
400 the hearings are not intended to be conducted like proceedings in courts, and that rules of evidence do
401 not necessarily apply.

402 11. Implementation of final hearing decisions.

403 Either party may petition the circuit court having jurisdiction in the locality in which the grievant is
404 employed for an order requiring implementation of the hearing decision.

405 B. Notwithstanding the contrary provisions of this section, a final hearing decision rendered under
406 the provisions of this section which would result in the reinstatement of any employee of a sheriff's
407 office, who has been terminated for cause may be reviewed by the circuit court for the locality upon the
408 petition of the locality. The review of the circuit court shall be limited to the question of whether the
409 decision of the panel or hearing officer was consistent with provisions of law and written policy.

410 **§ 15.2-1604. Appointment of deputies and employment of employees; discriminatory practices**
411 **by certain officers; civil penalty.**

412 A. It shall be an unlawful employment practice for a constitutional officer:

413 1. To fail or refuse to appoint or hire or to discharge any individual, or otherwise to discriminate
414 against any individual with respect to his compensation, terms, conditions or privileges of appointment
415 or employment, because of such individual's race, color, religion, sex ~~or~~, national origin, *pregnancy,*
416 *childbirth or related medical conditions, sexual orientation as defined in § 15.2-1500.1, or status as a*
417 *veteran; or*

418 2. To limit, segregate, or classify his appointees, employees or applicants for appointment or
419 employment in any way which would deprive or tend to deprive any individual of employment
420 opportunities or otherwise adversely affect his status as an employee, because of the individual's race,
421 color, religion, sex ~~or~~, national origin, *pregnancy, childbirth or related medical conditions, sexual*
422 *orientation as defined in § 15.2-1500.1, or status as a veteran.*

423 B. Nothing in this section shall be construed to make it an unlawful employment practice for a
424 constitutional officer to hire or appoint an individual on the basis of his sex or national origin in those
425 instances where sex or national origin is a bona fide occupational qualification reasonably necessary to
426 the normal operation of that particular office. The provisions of this section shall not apply to

427 policy-making positions, confidential or personal staff positions, or undercover positions.

428 C. With regard to notices and advertisements:

429 1. Every constitutional officer shall, prior to hiring any employee, advertise such employment
430 position in a newspaper having general circulation or a state or local government job placement service
431 in such constitutional officer's locality except where the vacancy is to be used (i) as a placement
432 opportunity for appointees or employees affected by layoff, (ii) as a transfer opportunity or demotion for
433 an incumbent, (iii) to fill positions that have been advertised within the past 120 days, (iv) to fill
434 positions to be filled by appointees or employees returning from leave with or without pay, (v) to fill
435 temporary positions, temporary employees being those employees hired to work on special projects that
436 have durations of three months or less, or (vi) to fill policy-making positions, confidential or personal
437 staff positions, or special, sensitive law-enforcement positions normally regarded as undercover work.

438 2. No constitutional officer shall print or publish or cause to be printed or published any notice or
439 advertisement relating to employment by such constitutional officer indicating any preference, limitation,
440 specification, or discrimination, based on sex or national origin, except that such notice or advertisement
441 may indicate a preference, limitation, specification, or discrimination based on sex or national origin
442 when sex or national origin is a bona fide occupational qualification for employment.

443 D. Complaints regarding violations of subsection A may be made to the Division of Human Rights
444 of the Department of Law. The Division shall have the authority to exercise its powers as outlined in
445 Article 4 (§ 2.2-520 et seq.) of Chapter 5 of Title 2.2.

446 E. Any constitutional officer who willfully violates the provisions of subsection C shall be subject to
447 a civil penalty not to exceed \$2,000.

448 **§ 22.1-295.2. Employment discrimination prohibited.**

449 *No school board or any agent or employee thereof shall discriminate in employment on the basis of*
450 *race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age,*
451 *marital status, disability, sexual orientation, or status as a veteran.*

452 *For the purposes of this section, "sexual orientation" means a person's actual or perceived*
453 *heterosexuality, bisexuality, homosexuality, or gender identity or expression. "Sexual orientation" shall*
454 *not include any person's attraction toward persons with whom sexual conduct would be illegal due to*
455 *the age of the parties.*

456 **§ 22.1-306. Definitions.**

457 As used in this article:

458 "Business day" means any day that the relevant school board office is open.

459 "Day" means calendar days unless a different meaning is clearly expressed in this article. Whenever
460 the last day for performing an act required by this article falls on a Saturday, Sunday, or legal holiday,
461 the act may be performed on the next day that is not a Saturday, Sunday, or legal holiday.

462 "Dismissal" means the dismissal of any teacher during the term of such teacher's contract.

463 "Grievance" means a complaint or dispute by a teacher relating to his employment, including but not
464 necessarily limited to: (i) disciplinary action including dismissal; (ii) the application or interpretation of:
465 (a) personnel policies, (b) procedures, (c) rules and regulations, (d) ordinances, and (e) statutes; (iii) acts
466 of reprisal against a teacher for filing or processing a grievance, participating as a witness in any step,
467 meeting or hearing relating to a grievance, or serving as a member of a fact-finding panel; and (iv)
468 complaints of discrimination on the basis of race, color, ~~creed~~ religion, political affiliation, ~~handicap~~
469 *disability, age, national origin, sex, pregnancy, childbirth or related medical conditions, marital*
470 *status, or sexual orientation as defined in § 22.1-295.2. Each school board shall have the exclusive right*
471 *to manage the affairs and operations of the school division. Accordingly, the term "grievance" shall not*
472 *include a complaint or dispute by a teacher relating to (1) establishment and revision of wages or*
473 *salaries, position classifications or general benefits, (2) suspension of a teacher or nonrenewal of the*
474 *contract of a teacher who has not achieved continuing contract status, (3) the establishment or contents*
475 *of ordinances, statutes or personnel policies, procedures, rules and regulations, (4) failure to promote, (5)*
476 *discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in enrollment or*
477 *abolition of a particular subject or insufficient funding, (6) hiring, transfer, assignment, and retention of*
478 *teachers within the school division, (7) suspension from duties in emergencies, (8) the methods, means,*
479 *and personnel by which the school division's operations are to be carried on, or (9) coaching or*
480 *extracurricular activity sponsorship.*

481 While these management rights are reserved to the school board, failure to apply, where applicable,
482 the rules, regulations, policies, or procedures as written or established by the school board is grievable.

483 **§ 36-96.1. Declaration of policy.**

484 A. This chapter shall be known and referred to as the Virginia Fair Housing Law.

485 B. It is the policy of the Commonwealth of Virginia to provide for fair housing throughout the
486 Commonwealth, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness,
487 familial status, *sexual orientation, gender identity*, or handicap, and to that end to prohibit discriminatory
488 practices with respect to residential housing by any person or group of persons, in order that the peace,

489 health, safety, prosperity, and general welfare of all the inhabitants of the Commonwealth may be
 490 protected and insured. This law shall be deemed an exercise of the police power of the Commonwealth
 491 of Virginia for the protection of the people of the Commonwealth.

492 **§ 36-96.1:1. Definitions.**

493 For the purposes of this chapter, unless the context clearly indicates otherwise:

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

497 "Complainant" means a person, including the Fair Housing Board, who files a complaint under
 498 § 36-96.9.

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

502 "Conciliation agreement" means a written agreement setting forth the resolution of the issues in
 503 conciliation.

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

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

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

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

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

518 "*Gender identity*" means the gender-related identity, appearance, or other gender-related
 519 characteristics of an individual, with or without regard to the individual's designated sex at birth.

520 "Handicap" means, with respect to a person, (i) a physical or mental impairment that substantially
 521 limits one or more of such person's major life activities; (ii) a record of having such an impairment; or
 522 (iii) being regarded as having such an impairment. The term does not include current, illegal use of, or
 523 addiction to a controlled substance as defined in Virginia or federal law. Neither the term "individual
 524 with handicap" nor the term "handicap" shall apply to an individual solely because that individual is a
 525 transvestite.

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

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

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

535 "Restrictive covenant" means any specification in any instrument affecting title to real property that
 536 purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color,
 537 religion, national origin, sex, elderliness, familial status, or handicap.

538 "*Sexual orientation*" means a person's actual or perceived heterosexuality, bisexuality, or
 539 homosexuality. "*Sexual orientation*" shall not include any person's attraction toward persons with whom
 540 sexual conduct would be illegal due to the age of the parties.

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

543 **§ 36-96.2. Exemptions.**

544 A. Except as provided in subdivision A 3 of § 36-96.3 and subsections A, B, and C of § 36-96.6,
 545 this chapter shall not apply to any single-family house sold or rented by an owner, provided that such
 546 private individual does not own more than three single-family houses at any one time. In the case of the
 547 sale of any single-family house by a private individual-owner not residing in the house at the time of
 548 the sale or who was not the most recent resident of the house prior to sale, the exemption granted shall
 549 apply only with respect to one such sale within any 24-month period; provided that such bona fide

550 private individual owner does not own any interest in, nor is there owned or reserved on his behalf,
 551 under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from
 552 the sale or rental of, more than three such single-family houses at any one time. The sale or rental of
 553 any such single-family house shall be exempt from the application of this chapter only if the house is
 554 sold or rented (i) without the use in any manner of the sales or rental facilities or the sales or rental
 555 services of any real estate broker, agent, salesperson, or of the facilities or the services of any person in
 556 the business of selling or renting dwellings, or of any employee, independent contractor, or agent of any
 557 broker, agent, salesperson, or person and (ii) without the publication, posting, or mailing, after notice, of
 558 any advertisement or written notice in violation of this chapter. However, nothing herein shall prohibit
 559 the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as
 560 necessary to perfect or transfer the title. This exemption shall not apply to or inure to the benefit of any
 561 licensee of the Real Estate Board or regulant of the Fair Housing Board, regardless of whether the
 562 licensee is acting in his personal or professional capacity.

563 B. Except for subdivision A 3 of § 36-96.3, this chapter shall not apply to rooms or units in
 564 dwellings containing living quarters occupied or intended to be occupied by no more than four families
 565 living independently of each other, if the owner actually maintains and occupies one of such living
 566 quarters as his residence.

567 C. Nothing in this chapter shall prohibit a religious organization, association or society, or any
 568 nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a
 569 religious organization, association or society, from limiting the sale, rental, or occupancy of dwellings
 570 that it owns or operates for other than a commercial purpose to persons of the same religion, or from
 571 giving preferences to such persons, unless membership in such religion is restricted on account of race,
 572 color, national origin, sex, elderliness, familial status, *sexual orientation*, *gender identity*, or handicap.
 573 Nor shall anything in this chapter apply to a private membership club not in fact open to the public,
 574 which as an incident to its primary purpose or purposes provides lodging which it owns or operates for
 575 other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members
 576 or from giving preference to its members. Nor, where matters of personal privacy are involved, shall
 577 anything in this chapter be construed to prohibit any private, state-owned or state-supported educational
 578 institution, hospital, nursing home, religious or correctional institution, from requiring that persons of
 579 both sexes not occupy any single-family residence or room or unit of dwellings or other buildings, or
 580 restrooms in such room or unit in dwellings or other buildings, which it owns or operates.

581 D. Nothing in this chapter prohibits conduct against a person because such person has been convicted
 582 by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled
 583 substance as defined in federal law.

584 E. It shall not be unlawful under this chapter for any owner to deny or limit the rental of housing to
 585 persons who pose a clear and present threat of substantial harm to others or to the dwelling itself.

586 F. A rental application may require disclosure by the applicant of any criminal convictions and the
 587 owner or managing agent may require as a condition of acceptance of the rental application that
 588 applicant consent in writing to a criminal record check to verify the disclosures made by applicant in the
 589 rental application. The owner or managing agent may collect from the applicant moneys to reimburse
 590 the owner or managing agent for the exact amount of the out-of-pocket costs for such criminal record
 591 checks. Nothing in this chapter shall require an owner or managing agent to rent a dwelling to an
 592 individual who, based on a prior record of criminal convictions involving harm to persons or property,
 593 would constitute a clear and present threat to the health or safety of other individuals.

594 G. Nothing in this chapter limits the applicability of any reasonable local, state or federal restriction
 595 regarding the maximum number of occupants permitted to occupy a dwelling. Owners or managing
 596 agents of dwellings may develop and implement reasonable occupancy and safety standards based on
 597 factors such as the number and size of sleeping areas or bedrooms and overall size of a dwelling unit so
 598 long as the standards do not violate local, state or federal restrictions. Nothing in this chapter prohibits
 599 the rental application or similar document from requiring information concerning the number, ages, sex
 600 and familial relationship of the applicants and the dwelling's intended occupants.

601 **§ 36-96.3. Unlawful discriminatory housing practices.**

602 A. It shall be an unlawful discriminatory housing practice for any person:

603 1. To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale
 604 or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color,
 605 religion, national origin, sex, elderliness, ~~or~~ familial status, *sexual orientation*, or *gender identity*;

606 2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a
 607 dwelling, or in the provision of services or facilities in the connection therewith to any person because
 608 of race, color, religion, national origin, sex, elderliness, ~~or~~ familial status, *sexual orientation*, or *gender*
 609 *identity*;

610 3. To make, print, or publish, or cause to be made, printed, or published any notice, statement, or
 611 advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or

612 discrimination or an intention to make any such preference, limitation, or discrimination based on ~~on~~ *on the*
 613 *basis of* race, color, religion, national origin, sex, elderliness, familial status, ~~or~~ *sexual orientation,*
 614 *gender identity, or* handicap. The use of words or symbols associated with a particular religion, national
 615 origin, sex, or race shall be prima facie evidence of an illegal preference under this chapter which shall
 616 not be overcome by a general disclaimer. However, reference alone to places of worship including, but
 617 not limited to, churches, synagogues, temples, or mosques in any such notice, statement or advertisement
 618 shall not be prima facie evidence of an illegal preference;

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

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

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

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

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

638 9. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a
 639 dwelling, or in the provision of services or facilities in connection therewith because of a handicap of (i)
 640 that person, (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented or
 641 made available, or (iii) any person associated with that buyer or renter.

642 B. For the purposes of this section, discrimination includes: (i) a refusal to permit, at the expense of
 643 the handicapped person, reasonable modifications of existing premises occupied or to be occupied by
 644 any person if such modifications may be necessary to afford such person full enjoyment of the premises;
 645 except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition
 646 permission for a modification on the renter's agreeing to restore the interior of the premises to the
 647 condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make
 648 reasonable accommodations in rules, practices, policies, or services when such accommodations may be
 649 necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection
 650 with the design and construction of covered multi-family dwellings for first occupancy after March 13,
 651 1991, a failure to design and construct dwellings in such a manner that:

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

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

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

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

667 D. Nothing in this chapter shall be construed to invalidate or limit any Virginia law or regulation
 668 which requires dwellings to be designed and constructed in a manner that affords handicapped persons
 669 greater access than is required by this chapter.

670 **§ 36-96.4. Discrimination in residential real estate-related transactions; unlawful practices by**
 671 **lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.**

672 A. It shall be unlawful for any person or other entity, including any lending institution, whose

673 business includes engaging in residential real estate-related transactions, to discriminate against any
674 person in making available such a transaction, or in the terms or conditions of such a transaction, or in
675 the manner of providing such a transaction, because of race, color, religion, national origin, sex,
676 elderliness, familial status, *sexual orientation*, *gender identity*, or handicap. It shall not be unlawful,
677 however, for any person or other entity whose business includes engaging in residential real estate
678 transactions to require any applicant to qualify financially for the loan or loans for which such person is
679 making application.

680 B. As used in this section, the term "residential real estate-related transaction" means any of the
681 following:

682 1. The making or purchasing of loans or providing other financial assistance (i) for purchasing,
683 constructing, improving, repairing, or maintaining a dwelling or (ii) secured by residential real estate; or

684 2. The selling, brokering, insuring or appraising of residential real property. However, nothing in this
685 chapter shall prohibit a person engaged in the business of furnishing appraisals of real property to take
686 into consideration factors other than race, color, religion, national origin, sex, elderliness, familial status,
687 *sexual orientation*, *gender identity*, or handicap.

688 C. It shall be unlawful for any state, county, city, or municipal treasurer or governmental official
689 whose responsibility it is to account for, to invest, or manage public funds to deposit or cause to be
690 deposited any public funds in any lending institution provided for herein which is found to be
691 committing discriminatory practices, where such findings were upheld by any court of competent
692 jurisdiction. Upon such a court's judicial enforcement of any order to restrain a practice of such lending
693 institution or for said institution to cease or desist in a discriminatory practice, the appropriate fiscal
694 officer or treasurer of the Commonwealth or any political subdivision thereof which has funds deposited
695 in any lending institution which is practicing discrimination, as set forth herein, shall take immediate
696 steps to have the said funds withdrawn and redeposited in another lending institution. If for reasons of
697 sound economic management, this action will result in a financial loss to the Commonwealth or any of
698 its political subdivisions, the action may be deferred for a period not longer than one year. If the lending
699 institution in question has corrected its discriminatory practices, any prohibition set forth in this section
700 shall not apply.

701 **§ 55-248.47. Sale or lease of manufactured home by owner.**

702 A. As used in this section:

703 "*Gender identity*" means the gender-related identity, appearance, or other gender-related
704 characteristics of an individual, with or without regard to the individual's designated sex at birth.

705 "*Sexual orientation*" means a person's actual or perceived heterosexuality, bisexuality, or
706 homosexuality. "*Sexual orientation*" shall not include any person's attraction toward persons with whom
707 sexual conduct would be illegal due to the age of the parties.

708 B. The landlord shall not unreasonably refuse or restrict the sale or rental of a manufactured home
709 located in his manufactured home park by a tenant. The landlord shall not prohibit the manufactured
710 home owner from placing a "for sale" sign on or in his home except that the size, placement, and
711 character of all signs are subject to the rules and regulations of the park. Prior to selling or leasing the
712 manufactured home the tenant shall give notice to the landlord, including, but not limited to, the name
713 of the prospective vendee or lessee if the prospective vendee or lessee intends to occupy the
714 manufactured home in that manufactured home park. The landlord shall have the burden of proving that
715 his refusal or restriction regarding the sale or rental of a manufactured home was reasonable. The refusal
716 or restriction of the sale or rental of a manufactured home based exclusively or predominantly on the
717 age of the home shall be considered unreasonable. Any refusal or restriction because of race, color,
718 religion, national origin, familial status, elderliness, handicap, *sexual orientation*, *gender identity*, or sex
719 shall be conclusively presumed to be unreasonable.