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**HOUSE BILL NO. 401**

Offered January 10, 2018

Prefiled January 5, 2018

A *BILL to amend and reenact §§ 2.2-3004, 2.2-3900 through 2.2-3903, 2.2-4200, 2.2-4201, 2.2-4310, 2.2-4311, 2.2-4343.1, 4.1-101.05, 6.2-501, 15.2-853, 15.2-854, 15.2-965, 15.2-1131, 15.2-1507, 15.2-1604, 22.1-306, 23.1-1017, 36-55.26, 36-96.1 through 36-96.3, 36-96.4, 38.2-2114, 38.2-2115, 38.2-2212, 38.2-2213, 40.1-121, 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 prohibited discrimination; sexual orientation and gender identity.*

Patrons—Levine, Carr, Gooditis, Murphy and Rodman

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, 2.2-4200, 2.2-4201, 2.2-4310, 2.2-4311, 2.2-4343.1, 4.1-101.05, 6.2-501, 15.2-853, 15.2-854, 15.2-965, 15.2-1131, 15.2-1507, 15.2-1604, 22.1-306, 23.1-1017, 36-55.26, 36-96.1 through 36-96.3, 36-96.4, 38.2-2114, 38.2-2115, 38.2-2212, 38.2-2213, 40.1-121, 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, gender identity, or status as a veteran.*

**§ 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, marital status, sexual orientation, gender identity, 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 Human Resource Management (the Director). Upon receipt of an appeal, the agency shall transmit the entire grievance record to the Department of Human Resource Management within five workdays. The

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HB401

59 Director shall render a decision on whether the employee is entitled to a hearing upon the grievance  
60 record and other probative evidence.

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

66 **§ 2.2-3900. Short title; declaration of policy.**

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

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

69 1. Safeguard all individuals within the Commonwealth from unlawful discrimination because of race,  
70 color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital  
71 status, *sexual orientation, gender identity*, or disability, in places of public accommodation, including  
72 educational institutions and in real estate transactions;

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

77 3. *Preserve* the public safety, health, and general welfare; ~~and further~~

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

79 ~~2.~~ 5. Protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

80 **§ 2.2-3901. Unlawful discriminatory practice and gender discrimination defined.**

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

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

90 **§ 2.2-3902. Construction of chapter; other programs to aid persons with disabilities, minors and**  
91 **the elderly.**

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

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

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

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

113 **§ 2.2-3903. Causes of action not created.**

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

117 B. No employer employing more than five but less than 15 persons shall discharge any such  
118 employee on the basis of race, color, religion, national origin, sex, *marital status, sexual orientation,*  
119 *gender identity, status as a veteran*, pregnancy, childbirth or related medical conditions, including  
120 lactation. No employer employing more than five but less than 20 persons shall discharge any such

employee on the basis of age if the employee is 40 years of age 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 Division of Human Rights of the Department of Law 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 Division 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 § 6.2-302. 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 attorney 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.

D. Causes of action based upon the public policies reflected in this chapter 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 Division or of any local human rights or human relations commissions established pursuant to § 15.2-853 or 15.2-965.

**§ 2.2-4200. Declaration of policy; discrimination prohibited in awarding contracts; definitions.**

A. It is declared to be the policy of the Commonwealth to eliminate all discrimination on account of race, color, religion, sex, *sexual orientation*, *gender identity*, or national origin from the employment practices of the Commonwealth, its agencies, and government contractors.

B. In the awarding of contracts, contracting agencies shall not engage in an unlawful discriminatory practice as defined in § 2.2-3901.

C. As used in this chapter, unless the context requires a different meaning:

"Agency" means any agency or instrumentality, corporate or otherwise, of the government of the Commonwealth.

"Contractor" means any individual, partnership, corporation or association that performs services for or supplies goods, materials, or equipment to the Commonwealth or any agency thereof.

**§ 2.2-4201. Required contract provisions.**

All contracting agencies shall include in every government contract of over \$10,000 the following provisions:

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, *sexual orientation*, *gender identity*, or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, including the names of all contracting agencies with which the contractor has contracts of over \$10,000.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that such contractor is an equal opportunity employer. However, notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this chapter.

The contractor shall include the provisions of the subdivisions 1 and 2 in every subcontract or purchase order of over \$10,000, so that such provisions shall be binding upon each subcontractor or vendor.

Nothing contained in this chapter shall be deemed to empower any agency to require any contractor to grant preferential treatment to, or discriminate against, any individual or any group because of race, color, religion, sex, *sexual orientation*, *gender identity*, or national origin on account of an imbalance that may exist with respect to the total number or percentage of persons of any race, color, religion, sex, *sexual orientation*, *gender identity*, or national origin employed by such contractor in comparison with the total number or percentage of persons of such race, color, religion, sex, *sexual orientation*, *gender identity*, or national origin in any community or in the Commonwealth.

**§ 2.2-4310. Discrimination prohibited; participation of small, women-owned, minority-owned, and service disabled veteran-owned business and employment services organization.**

A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, *sexual orientation*, *gender identity*, or any other basis prohibited by state law relating to

discrimination in employment. Whenever solicitations are made, each public body shall include businesses selected from a list made available by the Department of Small Business and Supplier Diversity, which list shall include all companies and organizations certified by the Department.

B. All public bodies shall establish programs consistent with this chapter to facilitate the participation of small businesses, businesses owned by women, minorities, and service disabled veterans, and employment services organizations in procurement transactions. The programs established shall be in writing and shall comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to subsection C or, where applicable, by the chief executive of a local governing body pursuant to § 15.2-965.1, and shall include specific plans to achieve any goals established therein. State agencies shall submit annual progress reports on (i) small, women-owned, and minority-owned business procurement, (ii) service disabled veteran-owned business procurement, and (iii) employment services organization procurement to the Department of Small Business and Supplier Diversity in a form specified by the Department of Small Business and Supplier Diversity. Contracts and subcontracts awarded to employment services organizations shall be credited toward the small business, women-owned, and minority-owned business contracting and subcontracting goals of state agencies and contractors. The Department of Small Business and Supplier Diversity shall make information on service disabled veteran-owned procurement available to the Department of Veterans Services upon request.

C. Whenever there exists (i) a rational basis for small business or employment services organization enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the Governor is authorized and encouraged to require state agencies to implement appropriate enhancement or remedial measures consistent with prevailing law. Any enhancement or remedial measure authorized by the Governor pursuant to this subsection for state public bodies may allow for small businesses certified by the Department of Small Business and Supplier Diversity or a subcategory of small businesses established as a part of the enhancement program to have a price preference over noncertified businesses competing for the same contract award on designated procurements, provided that the bid of the certified small business or the business in such subcategory of small businesses established as a part of an enhancement program does not exceed the low bid by more than five percent.

D. In awarding a contract for services to a small, women-owned, or minority-owned business that is certified in accordance with § 2.2-1606, or to a business identified by a public body as a service disabled veteran-owned business where the award is being made pursuant to an enhancement or remedial program as provided in subsection C, the public body shall include in every such contract of more than \$10,000 the following:

"If the contractor intends to subcontract work as part of its performance under this contract, the contractor shall include in the proposal a plan to subcontract to small, women-owned, minority-owned, and service disabled veteran-owned businesses."

E. In the solicitation or awarding of contracts, no state agency, department or institution shall discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

F. As used in this section:

"Employment services organization" means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

"Minority individual" means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.

3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

4. "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

"Minority-owned business" means a business that is at least 51 percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation,

partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals, or any historically black college or university as defined in § 2.2-1604, regardless of the percentage ownership by minority individuals or, in the case of a corporation, partnership, or limited liability company or other entity, the equity ownership interest in the corporation, partnership, or limited liability company or other entity.

"Service disabled veteran" means a veteran who (i) served on active duty in the United States military ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

"Service disabled veteran business" means a business that is at least 51 percent owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.

"Small business" means a business, independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or annual gross receipts of \$10 million or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" shall not include any county, city, or town.

"Women-owned business" means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

#### **§ 2.2-4311. Employment discrimination by contractor prohibited; required contract provisions.**

All public bodies shall include in every contract of more than \$10,000 the following provisions:

1. During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, *sexual orientation*, *gender identity*, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

2. The contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

#### **§ 2.2-4343.1. Permitted contracts with certain religious organizations; purpose; limitations.**

A. It is the intent of the General Assembly, in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, to authorize public bodies to enter into contracts with faith-based organizations for the purposes described in this section on the same basis as any other nongovernmental source without impairing the religious character of such organization, and without diminishing the religious freedom of the beneficiaries of assistance provided under this section.

B. For the purposes of this section, "faith-based organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

C. Public bodies, in procuring goods or services, or in making disbursements pursuant to this section, shall not (i) discriminate against a faith-based organization on the basis of the organization's religious character or (ii) impose conditions that (a) restrict the religious character of the faith-based organization, except as provided in subsection F, or (b) impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements.

D. Public bodies shall ensure that all invitations to bid, requests for proposals, contracts, and

305 purchase orders prominently display a nondiscrimination statement indicating that the public body does  
306 not discriminate against faith-based organizations.

307 E. A faith-based organization contracting with a public body (i) shall not discriminate against any  
308 recipient of goods, services, or disbursements made pursuant to a contract authorized by this section on  
309 the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on  
310 the basis of race, age, color, gender, *sexual orientation*, *gender identity*, or national origin and (ii) shall  
311 be subject to the same rules as other organizations that contract with public bodies to account for the  
312 use of the funds provided; however, if the faith-based organization segregates public funds into separate  
313 accounts, only the accounts and programs funded with public funds shall be subject to audit by the  
314 public body. Nothing in clause (ii) shall be construed to supersede or otherwise override any other  
315 applicable state law.

316 F. Consistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,  
317 P.L. 104-193, funds provided for expenditure pursuant to contracts with public bodies shall not be spent  
318 for religious worship, instruction, or proselytizing; however, this prohibition shall not apply to  
319 expenditures pursuant to contracts, if any, for the services of chaplains.

320 G. Nothing in this section shall be construed as barring or prohibiting a faith-based organization from  
321 any opportunity to make a bid or proposal or contract on the grounds that the faith-based organization  
322 has exercised the right, as expressed in 42 U.S.C. (§ 2000 e-1 et seq.), to employ persons of a particular  
323 religion.

324 H. If an individual, who applies for or receives goods, services, or disbursements provided pursuant  
325 to a contract between a public body and a faith-based organization, objects to the religious character of  
326 the faith-based organization from which the individual receives or would receive the goods, services, or  
327 disbursements, the public body shall offer the individual, within a reasonable period of time after the  
328 date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

329 The public body shall provide to each individual who applies for or receives goods, services, or  
330 disbursements provided pursuant to a contract between a public body and a faith-based organization a  
331 notice in bold face type that states: "Neither the public body's selection of a charitable or faith-based  
332 provider of services nor the expenditure of funds under this contract is an endorsement of the provider's  
333 charitable or religious character, practices, or expression. No provider of services may discriminate  
334 against you on the basis of religion, a religious belief, or your refusal to actively participate in a  
335 religious practice. If you object to a particular provider because of its religious character, you may  
336 request assignment to a different provider. If you believe that your rights have been violated, please  
337 discuss the complaint with your provider or notify the appropriate person as indicated in this form."

338 **§ 4.1-101.05. Employees of the Authority.**

339 A. Employees of the Authority shall be considered employees of the Commonwealth. Employees of  
340 the Authority shall be eligible for membership in the Virginia Retirement System or other retirement  
341 plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all  
342 health and related insurance and other benefits, including premium conversion and flexible benefits,  
343 available to state employees as provided by law. Employees of the Authority shall be employed on such  
344 terms and conditions as established by the Board. The Board shall develop and adopt policies and  
345 procedures that afford its employees grievance rights, ensure that employment decisions shall be based  
346 upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion,  
347 national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, *sexual*  
348 *orientation*, *gender identity*, *status as a veteran*, or disability. Notwithstanding any other provision of  
349 law, the Board shall develop, implement, and administer a paid leave program, which may include  
350 annual, personal, and sick leave or any combination thereof. All other leave benefits shall be  
351 administered in accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, except as otherwise  
352 provided in this section.

353 B. Notwithstanding any other provision of law, the Authority shall give preference in hiring to  
354 special agents and employees of the Department of Alcoholic Beverage Control. The Authority shall  
355 issue a written notice to all persons whose employment at the Department of Alcoholic Beverage  
356 Control will be transferred to the Authority. The date upon which such written notice is issued shall be  
357 referred to herein as the "Option Date." In order to facilitate an orderly and efficient transition and  
358 ensure the continuation of operations during the transition from the Department of Alcoholic Beverage  
359 Control (the Department) to the Authority, the Authority shall have discretion, subject to the time  
360 limitations contained herein, to determine the date upon which any employee's employment with the  
361 Department will end or be transferred to the Authority. This date shall be stated in the written notice  
362 and shall be referred to herein as the "Transition Date." No Transition Date shall occur prior to July 1,  
363 2018, without the mutual agreement of the employee and the Authority. No Transition Date shall be set  
364 beyond December 31, 2018. Each person whose employment will be transferred to the Authority may,  
365 by written request made within 180 days of the Option Date, elect not to become employed by the  
366 Authority. Any employee of the Department of Alcoholic Beverage Control who (i) is not offered the

opportunity to transfer to employment by the Authority or (ii) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act. Any eligibility for such severance benefits shall be contingent on the continued employment through an employee's Transition Date.

C. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 shall continue to be a member of such health insurance plan under the same terms and conditions as if no transfer had occurred.

D. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred.

E. Notwithstanding any other provision of law, any person whose employment is transferred to the Authority as a result of this section and who was subjected to a criminal history background check as a condition of employment with the Department of Alcoholic Beverage Control shall not be subject to the requirements of § 4.1-103.1, unless the Authority deems otherwise.

#### **§ 6.2-501. Prohibited discrimination.**

A. It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction:

1. On the basis of race, color, religion, national origin, sex ~~or~~, *sexual orientation, gender identity*, marital status, or age, provided the applicant has the capacity to contract; or

2. Because all or part of the applicant's income derives from any public assistance or social services program.

B. It shall not constitute discrimination for purposes of this chapter for a creditor:

1. To make an inquiry of marital status if such inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and not to discriminate in a determination of creditworthiness;

2. To make an inquiry of the applicant's age or of whether the applicant's income derives from any public assistance or social services program if such inquiry is for the purpose of determining the amount and probable continuance of income levels, credit history, or other pertinent element of creditworthiness as provided in regulations of the Commission;

3. To use any empirically derived credit system which considers age if such system is demonstrably and statistically sound in accordance with regulations of the Commission, except that in the operation of such system the age of an elderly applicant may not be assigned a negative factor or value; or

4. To make an inquiry or to consider the age of an elderly applicant when the age of such applicant is to be used by the creditor in the extension of credit in favor of such applicant.

C. It is not a violation of this section for a creditor to refuse to extend credit offered pursuant to:

1. Any credit assistance program expressly authorized by law for an economically disadvantaged class of persons;

2. Any credit assistance program administered by a nonprofit organization for its members or an economically disadvantaged class of persons; or

3. Any special purpose credit program offered by a profit-making organization to meet special social needs which meets standards prescribed in regulations by the Commission, if such refusal is required by or made pursuant to such program.

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

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

1. To promote policies to ensure that all persons be afforded equal opportunity;

2. To serve as an agency for receiving, investigating, holding hearings, processing, and assisting in the voluntary resolution of complaints regarding discriminatory practices occurring within the county; and

3. With the approval of the county attorney, to seek, through appropriate enforcement authorities,

428 prevention of or relief from a violation of any ordinance prohibiting discrimination and to exercise such  
429 other powers and duties as provided in this article. However, the commission shall have no power itself  
430 to issue subpoenas, award damages, or grant injunctive relief.

431 For the purposes of this article, "person" means one or more individuals, labor unions, partnerships,  
432 corporations, associations, legal representatives, mutual companies, joint-stock companies, trusts, or  
433 unincorporated organizations.

434 **§ 15.2-854. Investigations.**

435 Whenever the commission on human rights has a reasonable cause to believe that any person has  
436 engaged in, or is engaging in, any violation of a county ordinance ~~which~~ *that* prohibits discrimination  
437 due to race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, age,  
438 marital status, *sexual orientation*, *gender identity*, or disability, and, after making a good faith effort to  
439 obtain the data, information, and attendance of witnesses necessary to determine whether such violation  
440 has occurred, is unable to obtain such data, information, or attendance, it may request the county  
441 attorney to petition the judge of the general district court for its jurisdiction for a subpoena against any  
442 such person refusing to produce such data and information or refusing to appear as a witness, and the  
443 judge of such court may, upon good cause shown, cause the subpoena to be issued. Any witness  
444 subpoena issued under this section shall include a statement that any statements made will be under oath  
445 and that the respondent or other witness is entitled to be represented by an attorney. Any person failing  
446 to comply with a subpoena issued under this section shall be subject to punishment for contempt by the  
447 court issuing the subpoena. Any person so subpoenaed may apply to the judge who issued a subpoena to  
448 quash it.

449 **§ 15.2-965. Human rights ordinances and commissions.**

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

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

456 **§ 15.2-1131. Establishment of personnel system for city administrative officials and employees.**

457 Notwithstanding any contrary provisions of law, general or special, in the Cities of Norfolk,  
458 Richmond, or Virginia Beach, the city council, upon receiving any recommendations submitted to it by  
459 the city manager, may establish a personnel system for the city administrative officials and employees.  
460 Such system shall be based on merit and professional ability and shall not discriminate on the basis of  
461 race, national origin, religion, sex, age, disabilities, political affiliation, *sexual orientation*, *gender*  
462 *identity*, or marital status. The personnel system shall consist of rules and regulations ~~which~~ *that* provide  
463 for the general administration of personnel matters, a classification plan for employees, a uniform pay  
464 plan, and a procedure for resolving grievances of employees as provided by general law for either local  
465 government or state government employees.

466 **§ 15.2-1500.1. Employment discrimination prohibited.**

467 *No department, office, board, commission, agency, or instrumentality of local government shall*  
468 *discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy,*  
469 *childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender*  
470 *identity, or status as a veteran.*

471 **§ 15.2-1507. Provision of grievance procedure; training programs.**

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

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

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

486 1. Definition of grievance. A grievance shall be a complaint or dispute by an employee relating to  
487 his employment, including but not necessarily limited to (i) disciplinary actions, including dismissals,  
488 disciplinary demotions, and suspensions, provided that dismissals shall be grievable whenever resulting  
489 from formal discipline or unsatisfactory job performance; (ii) the application of personnel policies,



procedures, rules and regulations, including the application of policies involving matters referred to in subdivision clause (iii) of subdivision 2 ~~(iii) below~~; (iii) discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin ~~or~~, sex, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, or status as a veteran; and (iv) 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. For the purposes of clause (iv), there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.

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

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

- (1) Appointees of elected groups or individuals;
- (2) Officials and employees who by charter or other law serve at the will or pleasure of an appointing authority;
- (3) Deputies and executive assistants to the chief administrative officer of a locality;
- (4) Agency heads or chief executive officers of government operations;
- (5) Employees whose terms of employment are limited by law;
- (6) Temporary, limited term, and seasonal employees;
- (7) Law-enforcement officers as defined in Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 whose grievance is subject to the provisions of Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance.

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

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

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

5. General requirements for procedures.

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

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

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

556 6. Time periods.

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

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

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

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

564 7. Compliance.

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

571 b. The chief administrative officer, or his designee, at his option, may require a clear written  
572 explanation of the basis for just cause extensions or exceptions. The chief administrative officer, or his  
573 designee, shall determine compliance issues. Compliance determinations made by the chief  
574 administrative officer shall be subject to judicial review by filing petition with the circuit court within  
575 30 days of the compliance determination.

576 8. Management steps.

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

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

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

588 9. Qualification for panel or administrative hearing.

589 a. Decisions regarding grievability and access to the procedure shall be made by the chief  
590 administrative officer of the local government, or his designee, at any time prior to the panel hearing, at  
591 the request of the local government or grievant, within 10 calendar days of the request. No city, town,  
592 or county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of  
593 grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative  
594 officer of the local government, or his designee, may be appealed to the circuit court having jurisdiction  
595 in the locality in which the grievant is employed for a hearing on the issue of whether the grievance  
596 qualifies for a panel hearing. Proceedings for review of the decision of the chief administrative officer or  
597 his designee shall be instituted by the grievant by filing a notice of appeal with the chief administrative  
598 officer within 10 calendar days from the date of receipt of the decision and giving a copy thereof to all  
599 other parties. Within 10 calendar days thereafter, the chief administrative officer or his designee shall  
600 transmit to the clerk of the court to which the appeal is taken: a copy of the decision of the chief  
601 administrative officer, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished  
602 to the court shall also be furnished to the grievant. The failure of the chief administrative officer or his  
603 designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the  
604 grievant, may issue a writ of certiorari requiring the chief administrative officer to transmit the record on  
605 or before a certain date.

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

10. Final hearings.

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

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

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

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

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

(5) Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives at the hearing. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the panel or hearing officer without being in violation of the provisions of § 54.1-3904.

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

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

b. Rules for panel and administrative hearings.

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

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

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

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

(4) That panels and hearing officers have the authority to determine the admissibility of evidence

674 without regard to the burden of proof, or the order of presentation of evidence, so long as a full and  
675 equal opportunity is afforded to all parties for the presentation of their evidence;

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

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

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

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

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

686 11. Implementation of final hearing decisions.

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

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

694 **§ 15.2-1604. Appointment of deputies and employment of employees; discriminatory practices**  
695 **by certain officers; civil penalty.**

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

697 1. To fail or refuse to appoint or hire or to discharge any individual, or otherwise to discriminate  
698 against any individual with respect to his compensation, terms, conditions or privileges of appointment  
699 or employment, because of such individual's race, color, religion, sex ~~or~~, national origin, *marital status,*  
700 *pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, or status as a*  
701 *veteran; or*

702 2. To limit, segregate, or classify his appointees, employees or applicants for appointment or  
703 employment in any way which would deprive or tend to deprive any individual of employment  
704 opportunities or otherwise adversely affect his status as an employee, because of the individual's race,  
705 color, religion, sex ~~or~~, national origin, *marital status, pregnancy, childbirth or related medical*  
706 *conditions, sexual orientation, gender identity, or status as a veteran.*

707 B. Nothing in this section shall be construed to make it an unlawful employment practice for a  
708 constitutional officer to hire or appoint an individual on the basis of his sex or national origin in those  
709 instances where sex or national origin is a bona fide occupational qualification reasonably necessary to  
710 the normal operation of that particular office. The provisions of this section shall not apply to  
711 policy-making positions, confidential or personal staff positions, or undercover positions.

712 C. With regard to notices and advertisements:

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

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

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

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

732 **§ 22.1-295.2. Employment discrimination prohibited.**

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

§ 22.1-306. Definitions.

As used in this article:

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

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

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

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

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

§ 23.1-1017. Covered institutions; operational authority; procurement.

A. Subject to the express provisions of the management agreement, each covered institution may be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except for § 2.2-4342, which shall not be construed to require compliance with the prequalification application procedures of subsection B of § 2.2-4317, provided, however, that (i) any deviations from the Virginia Public Procurement Act in the management agreement shall be uniform across all covered institutions and (ii) the governing board of the covered institution shall adopt, and the covered institution shall comply with, policies for the procurement of goods and services, including professional services, that shall (a) be based upon competitive principles, (b) in each instance seek competition to the maximum practical degree, (c) implement a system of competitive negotiation for professional services pursuant to §§ 2.2-4303.1 and 2.2-4302.2, (d) prohibit discrimination in the solicitation and award of contracts based on the bidder's or offeror's race, religion, color, sex, national origin, age, *sexual orientation, gender identity, or disability* or on any other basis prohibited by state or federal law, (e) incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354, (f) consider the impact on correctional enterprises under § 53.1-47, and (g) provide that whenever solicitations are made seeking competitive procurement of goods or services, it shall be a priority of the institution to provide for fair and reasonable consideration of small, women-owned, and minority-owned businesses and to promote and encourage a diversity of suppliers.

B. Such policies may (i) provide for consideration of the dollar amount of the intended procurement, the term of the anticipated contract, and the likely extent of competition; (ii) implement a prequalification procedure for contractors or products; and (iii) include provisions for cooperative arrangements with other covered institutions, other public or private educational institutions, or other public or private organizations or entities, including public-private partnerships, public bodies, charitable organizations, health care provider alliances or purchasing organizations or entities, state agencies or institutions of the Commonwealth or the other states, the District of Columbia, the territories, or the United States, and any combination of such organizations and entities.

C. Nothing in this section shall preclude a covered institution from requesting and utilizing the assistance of the Virginia Information Technologies Agency for information technology procurements and covered institutions are encouraged to utilize such assistance.

D. Each covered institution shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Commonwealth's procurement opportunities on one website.

E. As part of any procurement provisions of the management agreement, the governing board of a

covered institution shall identify the public, educational, and operational interests served by any procurement rule that deviates from procurement rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

**§ 36-55.26. Definitions.**

As used in this chapter the following words and terms have the following meanings, unless a different meaning clearly appears from the context:

"Bonds," "notes," "bond anticipation notes," and "other obligations" mean any bonds, notes, debentures, interim certificates or other evidences of financial indebtedness issued by HDA pursuant to this chapter.

"City" means any city or town in the Commonwealth.

"County" means any county in the Commonwealth.

"Earned surplus" shall have the same meaning as in generally accepted accounting standards.

"Economically mixed project" means residential housing or housing development, which may consist of one or more buildings located on contiguous or noncontiguous parcels that the HDA determines to finance as a single economically mixed project, to be occupied by persons and families of low and moderate income and by other persons and families as the HDA shall determine.

"Federal government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

"Federal mortgage" means a mortgage loan for land development for residential housing or residential housing made by the United States or an instrumentality thereof or for which there is a commitment by the United States of America or an instrumentality thereof to make such a mortgage loan.

"Federally insured mortgage" means a mortgage loan for land development for residential housing or residential housing insured or guaranteed by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to insure such a mortgage.

"HDA" means the Virginia Housing Development Authority created and established pursuant to § 36-55.27 of this chapter.

"Housing development costs" means the sum total of all costs incurred in the development of a housing development, which are approved by the HDA as reasonable and necessary, which costs shall include, but are not necessarily limited to: fair value of land owned by the sponsor, or cost of land acquisition and any buildings thereon, including payments for options, deposits, or contracts to purchase properties on the proposed housing site or payments for the purchase of such properties; cost of site preparation, demolition and development; architecture, engineering, legal, accounting, HDA, and other fees paid or payable in connection with the planning, execution and financing of the housing development; cost of necessary studies, surveys, plans and permits; insurance, interest; financing, tax and assessment costs and other operating and carrying costs during construction; cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery and apparatus related to the real property; cost of land improvements, including without limitation, landscaping and off-site improvements, whether or not such costs have been paid in cash or in a form other than cash; necessary expenses in connection with initial occupancy of the housing development; a reasonable profit and risk fee in addition to job overhead to the general contractor and, if applicable, a limited profit housing sponsor; an allowance established by HDA for working capital and contingency reserves, and reserves for any anticipated operating deficits during the first two years of occupancy; in the case of an economically mixed project within a revitalization area designated in or pursuant to § 36-55.30:2, the costs of any nonhousing buildings that are financed in conjunction with such project and that are incidental to such project or are determined by such governing body to be necessary or appropriate for the revitalization of such area or for the industrial, commercial or other economic development of such area; the cost of such other items, including tenant relocation, if such tenant relocation costs are not otherwise being provided for, as HDA shall determine to be reasonable and necessary for the development of the housing development, less any and all net rents and other net revenues received from the operation of the real and personal property on the development site during construction.

"Housing development" or "housing project" means any work or undertaking, whether new construction or rehabilitation, which is designed and financed pursuant to the provisions of this chapter for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for persons and families of low or moderate income in need of housing and, in the case of an economically mixed project, other persons and families; such undertaking may include any buildings, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and such offices, and other nonhousing facilities incidental or related to such development or project such as administrative, community, health, nursing care, medical, educational and recreational facilities as HDA determines to be necessary, convenient, or desirable. For the purposes of this chapter, medical and related facilities for the residence and care of the aged shall be deemed to be dwelling

859 accommodations.

860 "Housing lender" means any bank or trust company, mortgage banker approved by the Federal  
861 National Mortgage Association, savings bank, national banking association, savings and loan association  
862 or building and loan association, mortgage broker, mortgage company, mortgage lender, life insurance  
863 company, credit union, agency or authority of the Commonwealth or any other state, or locality  
864 authorized to finance housing loans on properties located in or outside of the Commonwealth to persons  
865 and families of any income.

866 "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, public bodies,  
867 trusts, firms, associations, or other legal entities or any combination thereof, corporations, cooperatives  
868 and condominiums, approved by HDA as qualified either to own, construct, acquire, rehabilitate,  
869 operate, manage or maintain a housing development whether nonprofit or organized for limited profit  
870 subject to the regulatory powers of HDA and other terms and conditions set forth in this chapter.

871 "Land development" means the process of acquiring land for residential housing construction, and of  
872 making, installing, or constructing nonresidential housing improvements, including, without limitation,  
873 waterlines and water supply installations, sewer lines and sewage disposal and treatment installations,  
874 steam, gas and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage  
875 facilities, other related pollution control facilities, and other installations or works, whether on or off the  
876 site, which HDA deems necessary or desirable to prepare such land primarily for residential housing  
877 construction within the Commonwealth.

878 "Loan servicer" means any person who, on behalf of a housing lender, collects or receives payments,  
879 including payments of principal, interest, escrow amounts, and other amounts due, on obligations due  
880 and owing to the housing lender pursuant to a residential mortgage loan or who, when the borrower is  
881 in default or in foreseeable likelihood of default, works on behalf of the housing lender with the  
882 borrower to modify or refinance, either temporarily or permanently, the obligations in order to avoid  
883 foreclosure or otherwise to finalize collection through the foreclosure process.

884 "Mortgage" means a mortgage deed, deed of trust, or other security instrument which shall constitute  
885 a lien in the Commonwealth on improvements and real property in fee simple, on a leasehold under a  
886 lease having a remaining term, which at the time such mortgage is acquired does not expire for at least  
887 that number of years beyond the maturity date of the interest-bearing obligation secured by such  
888 mortgage as is equal to the number of years remaining until the maturity date of such obligation or on  
889 personal property, contract rights or other assets.

890 "Mortgage lender" means any bank or trust company, mortgage banker approved by the Federal  
891 National Mortgage Association, savings bank, national banking association, savings and loan association,  
892 or building and loan association, life insurance company, the federal government or other financial  
893 institutions or government agencies which are authorized to and customarily provide service or otherwise  
894 aid in the financing of mortgages on residential housing located in the Commonwealth for persons and  
895 families of low or moderate income.

896 "Mortgage loan" means an interest-bearing obligation secured by a mortgage.

897 "Multifamily residential housing" means residential housing other than single-family residential  
898 housing, as hereinafter defined.

899 "Municipality" means any city, town, county or other political subdivision of the Commonwealth.

900 "Nonhousing building" means a building or portion thereof and any related improvements and  
901 facilities used or to be used for manufacturing, industrial, commercial, governmental, educational,  
902 entertainment, community development, healthcare or nonprofit enterprises or undertakings other than  
903 residential housing.

904 "Persons and families of low and moderate income" means persons and families, irrespective of race,  
905 creed, national origin, *sexual orientation*, *gender identity*, or sex, determined by the HDA to require  
906 such assistance as is made available by this chapter on account of insufficient personal or family income  
907 taking into consideration, without limitation, such factors as follows: (i) the amount of the total income  
908 of such persons and families available for housing needs, (ii) the size of the family, (iii) the cost and  
909 condition of housing facilities available, (iv) the ability of such persons and families to compete  
910 successfully in the normal private housing market and to pay the amounts at which private enterprise is  
911 providing sanitary, decent and safe housing, and (v) if appropriate, standards established for various  
912 federal programs determining eligibility based on income of such persons and families.

913 "Real property" means all lands, including improvements and fixtures thereon, and property of any  
914 nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or  
915 equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and  
916 the indebtedness secured by such liens.

917 "Residential housing" means a specific work or improvement within the Commonwealth, whether  
918 multifamily residential housing or single-family residential housing undertaken primarily to provide  
919 dwelling accommodations, including the acquisition, construction, rehabilitation, preservation or

improvement of land, buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental, related, or appurtenant thereto. For the purposes of this chapter, medical and related facilities for the residence and care of the aged shall be deemed to be dwelling accommodations.

"Single-family residential housing" means residential housing consisting of four or fewer dwelling units, the person or family owning or intending to acquire such dwelling units, upon completion of the construction, rehabilitation or improvement thereof, also occupying or intending to occupy one of such dwelling units.

**§ 36-96.1. Declaration of policy.**

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

B. It is the policy of the Commonwealth of Virginia to provide for fair housing throughout the Commonwealth, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status, *sexual orientation*, *gender identity*, or handicap, and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the Commonwealth may be protected and insured. This law shall be deemed an exercise of the police power of the Commonwealth of Virginia for the protection of the people of the Commonwealth.

**§ 36-96.1:1. Definitions.**

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

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

"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.

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

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

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

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

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

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

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

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

"Handicap" means, with respect to a person, (i) a physical or mental impairment that substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of or addiction to a controlled substance as defined in Virginia or federal law. For the purposes of this chapter, the terms "handicap" and "disability" shall be interchangeable.

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

"Major life activities" means, but shall not be limited to, any the following functions: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"Person" means one or more individuals, whether male or female, corporations, partnerships,



associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

"Physical or mental impairment" means, but shall not be limited to, any of the following: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii) any mental or psychological disorder, such as an intellectual or developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.

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

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

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

#### § 36-96.2. Exemptions.

A. Except as provided in subdivision A 3 of § 36-96.3 and subsections A, B, and C of § 36-96.6, this chapter shall not apply to any single-family house sold or rented by an owner, provided that such private individual does not own more than three single-family houses at any one time. In the case of the sale of any single-family house by a private individual-owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to sale, the exemption granted shall apply only with respect to one such sale within any 24-month period; provided that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempt from the application of this chapter only if the house is sold or rented (i) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of the facilities or the services of any person in the business of selling or renting dwellings, or of any employee, independent contractor, or agent of any broker, agent, salesperson, or person and (ii) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this chapter. However, nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title. This exemption shall not apply to or inure to the benefit of any licensee of the Real Estate Board or regulant of the Fair Housing Board, regardless of whether the licensee is acting in his personal or professional capacity.

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

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

D. Nothing in this chapter prohibits conduct against a person because such person has been convicted

1043 by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled  
1044 substance as defined in federal law.

1045 E. It shall not be unlawful under this chapter for any owner to deny or limit the rental of housing to  
1046 persons who pose a clear and present threat of substantial harm to others or to the dwelling itself.

1047 F. A rental application may require disclosure by the applicant of any criminal convictions and the  
1048 owner or managing agent may require as a condition of acceptance of the rental application that  
1049 applicant consent in writing to a criminal record check to verify the disclosures made by applicant in the  
1050 rental application. The owner or managing agent may collect from the applicant moneys to reimburse  
1051 the owner or managing agent for the exact amount of the out-of-pocket costs for such criminal record  
1052 checks. Nothing in this chapter shall require an owner or managing agent to rent a dwelling to an  
1053 individual who, based on a prior record of criminal convictions involving harm to persons or property,  
1054 would constitute a clear and present threat to the health or safety of other individuals.

1055 G. Nothing in this chapter limits the applicability of any reasonable local, state or federal restriction  
1056 regarding the maximum number of occupants permitted to occupy a dwelling. Owners or managing  
1057 agents of dwellings may develop and implement reasonable occupancy and safety standards based on  
1058 factors such as the number and size of sleeping areas or bedrooms and overall size of a dwelling unit so  
1059 long as the standards do not violate local, state or federal restrictions. Nothing in this chapter prohibits  
1060 the rental application or similar document from requiring information concerning the number, ages, sex  
1061 and familial relationship of the applicants and the dwelling's intended occupants.

1062 **§ 36-96.3. Unlawful discriminatory housing practices.**

1063 A. It shall be an unlawful discriminatory housing practice for any person:

1064 1. To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale  
1065 or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color,  
1066 religion, national origin, sex, elderliness, ~~or~~ familial status, *sexual orientation, or gender identity*;

1067 2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a  
1068 dwelling, or in the provision of services or facilities in the connection therewith to any person because  
1069 of race, color, religion, national origin, sex, elderliness, ~~or~~ familial status, *sexual orientation, or gender*  
1070 *identity*;

1071 3. To make, print, or publish, or cause to be made, printed, or published any notice, statement, or  
1072 advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or  
1073 discrimination or an intention to make any such preference, limitation or discrimination ~~based on~~ *on the*  
1074 *basis of* race, color, religion, national origin, sex, elderliness, familial status, *sexual orientation, gender*  
1075 *identity*, or handicap. The use of words or symbols associated with a particular religion, national origin,  
1076 sex, or race shall be prima facie evidence of an illegal preference under this chapter ~~which~~ *that* shall not  
1077 be overcome by a general disclaimer. However, reference alone to places of worship including, but not  
1078 limited to, churches, synagogues, temples, or mosques in any such notice, statement or advertisement  
1079 shall not be prima facie evidence of an illegal preference;

1080 4. To represent to any person because of race, color, religion, national origin, sex, elderliness,  
1081 familial status, *sexual orientation, gender identity*, or handicap that any dwelling is not available for  
1082 inspection, sale, or rental when such dwelling is in fact so available;

1083 5. To deny any person access to membership in or participation in any multiple listing service, real  
1084 estate brokers' organization, or other service, organization or facility relating to the business of selling or  
1085 renting dwellings, or to discriminate against such person in the terms or conditions of such access,  
1086 membership, or participation because of race, color, religion, national origin, sex, elderliness, familial  
1087 status, *sexual orientation, gender identity*, or handicap;

1088 6. To include in any transfer, sale, rental, or lease of housing, any restrictive covenant that  
1089 discriminates because of race, color, religion, national origin, sex, elderliness, familial status, *sexual*  
1090 *orientation, gender identity*, or handicap or for any person to honor or exercise, or attempt to honor or  
1091 exercise any such discriminatory covenant pertaining to housing;

1092 7. To induce or attempt to induce to sell or rent any dwelling by representations regarding the entry  
1093 or prospective entry into the neighborhood of a person or persons of a particular race, color, religion,  
1094 national origin, sex, elderliness, familial status, *sexual orientation, gender identity*, or handicap;

1095 8. To refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise discriminate  
1096 or make unavailable or deny a dwelling because of a handicap of (i) the buyer or renter, (ii) a person  
1097 residing in or intending to reside in that dwelling after it is so sold, rented or made available, or (iii)  
1098 any person associated with the buyer or renter;

1099 9. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a  
1100 dwelling, or in the provision of services or facilities in connection therewith because of a handicap of (i)  
1101 that person, (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented or  
1102 made available, or (iii) any person associated with that buyer or renter.

1103 B. For the purposes of this section, discrimination includes: (i) a refusal to permit, at the expense of  
1104 the handicapped person, reasonable modifications of existing premises occupied or to be occupied by

any person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable accommodations in rules, practices, policies, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:

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

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

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

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

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

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

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

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

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

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

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

**§ 38.2-2114. Grounds and procedure for termination of policy; contents of notice; review by Commissioner; exceptions; immunity from liability.**

A. Notwithstanding the provisions of § 38.2-2105, no policy or contract written to insure owner-occupied dwellings shall be canceled by an insurer unless written notice is mailed or delivered to

the named insured at the address stated in the policy, or is delivered electronically to the address provided by the named insured, and cancellation is for one of the following reasons:

1. Failure to pay the premium when due;
2. Conviction of a crime arising out of acts increasing the probability that a peril insured against will occur;
3. Discovery of fraud or material misrepresentation;
4. Willful or reckless acts or omissions increasing the probability that a peril insured against will occur as determined from a physical inspection of the insured premises;
5. Physical changes in the property which result in the property becoming uninsurable as determined from a physical inspection of the insured premises; or
6. Foreclosure efforts by the secured party against the subject property covered by the policy that have resulted in the sale of the property by a trustee under a deed of trust as duly recorded in the land title records of the jurisdiction in which the property is located.

B. No policy or contract written to insure owner-occupied dwellings shall be terminated by an insurer by refusal to renew except at the expiration of the stated policy period or term and unless the insurer or its agent acting on behalf of the insurer mails or delivers to the named insured, at the address stated in the policy, or delivers electronically to the address provided by the named insured, written notice of the insurer's refusal to renew the policy or contract.

C. A written notice of cancellation of or refusal to renew a policy or contract written to insure owner-occupied dwellings shall:

1. State the date that the insurer proposes to terminate the policy or contract, which shall be at least 30 days after mailing or delivering to the named insured the notice of cancellation or refusal to renew. However, when the policy is being terminated for the reason set forth in subdivision A 1 of subsection A of this section, the date that the insurer proposes to terminate the policy may be less than 30 days but at least 10 days from the date of mailing or delivery;

2. State the specific reason for terminating the policy or contract and provide for the notification required by the provisions of §§ 38.2-608 and 38.2-609 and subsection B of § 38.2-610. However, those notification requirements shall not apply when the policy is being canceled or not renewed for the reason set forth in subdivision A 1 of subsection A of this section;

3. Advise the insured that within 10 days of receipt of the notice of termination he may request in writing that the Commissioner review the action of the insurer in terminating the policy or contract;

4. Advise the insured of his possible eligibility for fire insurance coverage through the Virginia Property Insurance Association; and

5. Be in a type size authorized by § 38.2-311.

D. Within 10 days of receipt of the notice of termination any insured or his attorney shall be entitled to request in writing to the Commissioner that he review the action of the insurer in terminating a policy or contract written to insure owner-occupied dwellings. Upon receipt of the request, the Commissioner shall promptly initiate a review to determine whether the insurer's cancellation or refusal to renew complies with the requirements of this section and of § 38.2-2113, if sent by mail or delivered electronically. The policy shall remain in full force and effect during the pendency of the review by the Commissioner except where the cancellation or refusal to renew is for reason of nonpayment of premium, in which case the policy shall terminate as of the date stated in the notice. Where the Commissioner finds from the review that the cancellation or refusal to renew has not complied with the requirements of this section or of § 38.2-2113, if sent by mail or delivered electronically, he shall immediately notify the insurer, the insured, and any other person to whom notice of cancellation or refusal to renew was required to be given by the terms of the policy that the cancellation or refusal to renew is not effective. Nothing in this section authorizes the Commissioner to substitute his judgment as to underwriting for that of the insurer.

E. Nothing in this section shall apply:

1. To any policy written to insure owner-occupied dwellings that has been in effect for less than 90 days when the notice of termination is mailed or delivered to the insured, unless it is a renewal policy;

2. If the insurer or its agent acting on behalf of the insurer has manifested its willingness to renew by issuing or offering to issue a renewal policy, certificate or other evidence of renewal, or has otherwise manifested its willingness to renew in writing to the insured. The written manifestation shall include the name of a proposed insurer, the expiration date of the policy, the type of insurance coverage and information regarding the estimated renewal premium;

3. If the named insured or his duly constituted attorney-in-fact has notified the insurer or its agent orally, or in writing, if the insurer requires such notification to be in writing, that he wishes the policy to be canceled, or that he does not wish the policy to be renewed, or if, prior to the date of expiration, he fails to accept the offer of the insurer to renew the policy;

4. To any contract or policy written through the Virginia Property Insurance Association or any residual market facility established pursuant to Chapter 27 (§ 38.2-2700 et seq.) of this title; or

5. If an affiliated insurer has manifested its willingness to provide coverage at a lower premium than would have been charged for the same exposures on the expiring policy. The affiliated insurer shall manifest its willingness to provide coverage by issuing a policy with the types and limits of coverage at least equal to those contained in the expiring policy unless the named insured has requested a change in coverage or limits. When such offer is made by an affiliated insurer, an offer of renewal shall not be required of the insurer of the expiring policy, and the policy issued by the affiliated insurer shall be deemed to be a renewal policy.

F. Each insurer shall maintain, for at least one year, records of cancellation and refusal to renew and copies of every notice or statement referred to in subsection E of this section that it sends to any of its insureds.

G. There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner or his subordinates; any insurer, its authorized representative, its agents, or its employees; or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or refusal to renew, for any statement made by any of them in complying with this section or for providing information pertaining to the cancellation or refusal to renew.

H. Nothing in this section requires an insurer to renew a policy written to insure owner-occupied dwellings, if the insured does not conform to the occupational or membership requirements of an insurer who limits its writings to an occupation or membership of an organization.

I. No insurer or agent shall refuse to renew a policy written to insure an owner-occupied dwelling, solely because of any one or more of the following factors:

1. Age;
2. Sex;
3. Residence;
4. Race;
5. Color;
6. Creed;
7. National origin;
8. Ancestry;
9. Marital status;
10. *Sexual orientation*;
11. *Gender identity*;

~~10.~~ 12. Lawful occupation, including the military service; however, nothing in this subsection shall require any insurer to renew a policy for an insured where the insured's occupation has changed so as to increase materially the risk;

~~11.~~ 13. Credit information contained in a "consumer report," as defined in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., bearing on a natural person's creditworthiness, credit standing or credit capacity. If credit information is used, in part, as the basis for the nonrenewal, such credit information shall be based on a consumer report procured within 120 days from the effective date of the nonrenewal;

~~12.~~ 14. Any claim resulting primarily from natural causes;

~~13.~~ 15. One or more claims that were incurred more than 60 months immediately prior to the expiration of the current policy period; or

~~14.~~ 16. Any inquiry from an insured about his insurance coverage or policy provisions. For purposes of this subdivision, "inquiry" means a written or oral communication by an insured seeking information regarding coverage or policy provisions that does not notify the insurer of a loss, incident or accident, and that does not provide information indicating an increase in the hazard insured against. An insurer shall not report any inquiry as a claim to a loss history database maintained by a consumer reporting agency or insurance support organization.

Nothing in this section prohibits any insurer from setting rates in accordance with relevant actuarial data.

J. No insurer shall cancel or refuse to renew a policy written to insure an owner-occupied dwelling because an insured under the policy is a foster parent and foster children reside at the insured dwelling.

#### **§ 38.2-2115. Discrimination in issuance of fire insurance.**

No insurer or agent shall refuse to issue a policy solely because of any one or more of the following factors: the age, sex, residence, race, color, creed, national origin, ancestry, marital status, *sexual orientation*, *gender identity*, or lawful occupation, including the military service, of the person seeking insurance. Nothing in this section prohibits any insurer from limiting the issuance of policies to those who are residents of this Commonwealth, nor does it prohibit any insurer from limiting the issuance of policies only to persons engaging in or who have engaged in a particular profession or occupation, or who are members of a particular religious sect. Nothing in this section prohibits any insurer from setting rates in accordance with relevant actuarial data.

**§ 38.2-2212. Grounds and procedure for cancellation of or refusal to renew motor vehicle insurance policies; review by Commissioner.**

A. The following definitions shall apply to this section:

"Cancellation" or "to cancel" means a termination of a policy during the policy period.

"Insurer" means any insurance company, association, or exchange licensed to transact motor vehicle insurance in this Commonwealth.

"Policy of motor vehicle insurance" or "policy" means a policy or contract for bodily injury or property damage liability insurance issued or delivered in this Commonwealth covering liability arising from the ownership, maintenance, or use of any motor vehicle, insuring as the named insured one individual or husband and wife who are residents of the same household, and under which the insured vehicle designated in the policy is either:

~~a.~~ 1. A motor vehicle of a private passenger, station wagon, or motorcycle type that is not used commercially, rented to others, or used as a public or livery conveyance where the term "public or livery conveyance" does not include car pools, or

~~b.~~ 2. Any other four-wheel motor vehicle which is not used in the occupation, profession, or business, other than farming, of the insured, or as a public or livery conveyance, or rented to others. The term "policy of motor vehicle insurance" or "policy" does not include (i) any policy issued through the Virginia Automobile Insurance Plan, (ii) any policy covering the operation of a garage, sales agency, repair shop, service station, or public parking place, (iii) any policy providing insurance only on an excess basis, or (iv) any other contract providing insurance to the named insured even though the contract may incidentally provide insurance on motor vehicles.

"Renewal" or "to renew" means (i) the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, providing types and limits of coverage at least equal to those contained in the policy being superseded, or (ii) the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy. Each renewal shall conform with the requirements of the manual rules and rating program currently filed by the insurer with the Commission. Except as provided in subsection K of this section, any policy with a policy period or term of less than 12 months or any policy with no fixed expiration date shall for the purpose of this section be considered as if written for successive policy periods or terms of six months from the original effective date.

B. This section shall apply only to that portion of a policy of motor vehicle insurance providing the coverage required by §§ 38.2-2204, 38.2-2205, and 38.2-2206.

C. 1. No insurer shall refuse to renew a motor vehicle insurance policy solely because of any one or more of the following factors:

a. Age;

b. Sex;

c. Residence;

d. Race;

e. Color;

f. Creed;

g. National origin;

h. Ancestry;

i. Marital status;

j. *Sexual orientation*;

k. *Gender identity*;

~~j.~~ l. Lawful occupation, including the military service;

~~k.~~ m. Lack of driving experience, or number of years driving experience;

~~l.~~ n. Lack of supporting business or lack of the potential for acquiring such business;

~~m.~~ o. One or more accidents or violations that occurred more than 48 months immediately preceding the upcoming anniversary date;

~~n.~~ p. One or more claims submitted under the uninsured motorists coverage of the policy where the uninsured motorist is known or there is physical evidence of contact;

~~o.~~ q. A single claim by a single insured submitted under the medical expense coverage due to an accident for which the insured was neither wholly nor partially at fault;

~~p.~~ r. One or more claims submitted under the comprehensive or towing coverages. However, nothing in this section shall prohibit an insurer from modifying or refusing to renew the comprehensive or towing coverages at the time of renewal of the policy on the basis of one or more claims submitted by an insured under those coverages, provided that the insurer shall mail or deliver to the insured at the address shown in the policy, or deliver electronically to the address provided by the named insured, written notice of any such change in coverage at least 45 days prior to the renewal;

~~q.~~ s. Two or fewer motor vehicle accidents within a three-year period unless the accident was caused

either wholly or partially by the named insured, a resident of the same household, or other customary operator;

~~f. t.~~ Credit information contained in a "consumer report," as defined in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., bearing on a natural person's creditworthiness, credit standing or credit capacity. If credit information is used, in part, as the basis for the nonrenewal, such credit information shall be based on a consumer report procured within 120 days from the effective date of the nonrenewal. The provisions of this subdivision shall apply only to insurance purchased primarily for personal, family, or household purposes; or

~~s. u.~~ The refusal of a motor vehicle owner as defined in § 46.2-1088.6 to provide access to recorded data from a recording device as defined in § 46.2-1088.6.

2. Nothing in this section shall require any insurer to renew a policy for an insured where the insured's occupation has changed so as to materially increase the risk. Nothing contained in subdivisions ~~€ 1 n p, ‡ ø q, and ‡ p of this subsection r~~ shall prohibit an insurer from refusing to renew a policy where a claim is false or fraudulent. Nothing in this section prohibits any insurer from setting rates in accordance with relevant actuarial data.

D. No insurer shall cancel a policy except for one or more of the following reasons:

1. The named insured or any other operator who either resides in the same household or customarily operates a motor vehicle insured under the policy has had his driver's license suspended or revoked during the policy period or, if the policy is a renewal, during its policy period or the 90 days immediately preceding the last effective date.

2. The named insured fails to pay the premium for the policy or any installment of the premium, whether payable to the insurer or its agent either directly or indirectly under any premium finance plan or extension of credit.

3. The named insured or his duly constituted attorney-in-fact has notified the insurer of a change in the insured's legal residence to a state other than Virginia and the insured vehicle will be principally garaged in the new state of legal residence.

E. No cancellation or refusal to renew by an insurer of a policy of motor vehicle insurance shall be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew, or the insurer delivers such notice electronically to the address provided by the named insured. The notice shall:

1. Be in a type size authorized under § 38.2-311.

2. State the effective date of the cancellation or refusal to renew. The effective date of cancellation or refusal to renew shall be at least 45 days after mailing or delivering to the insured the notice of cancellation or notice of refusal to renew. However, when the policy is being canceled or not renewed for the reason set forth in subdivision ~~D 2 of subsection D of this section~~ the effective date may be less than 45 days but at least 15 days from the date of mailing or delivery.

3. State the specific reason of the insurer for cancellation or refusal to renew and provide for the notification required by §§ 38.2-608, 38.2-609, and subsection B of § 38.2-610. However, those notification requirements shall not apply when the policy is being canceled or not renewed for the reason set forth in subdivision ~~D2 of subsection D of this section~~.

4. Inform the insured of his right to request in writing within 15 days of the receipt of the notice that the Commissioner review the action of the insurer.

The notice of cancellation or refusal to renew shall contain the following statement to inform the insured of such right:

#### IMPORTANT NOTICE

Within 15 days of receiving this notice, you or your attorney may request in writing that the Commissioner of Insurance review this action to determine whether the insurer has complied with Virginia laws in canceling or nonrenewing your policy. If this insurer has failed to comply with the cancellation or nonrenewal laws, the Commissioner may require that your policy be reinstated. However, the Commissioner is prohibited from making underwriting judgments. If this insurer has complied with the cancellation or nonrenewal laws, the Commissioner does not have the authority to overturn this action.

5. Inform the insured of the possible availability of other insurance which may be obtained through his agent, through another insurer, or through the Virginia Automobile Insurance Plan.

6. If sent by mail or delivered electronically, comply with the provisions of § 38.2-2208.

Nothing in this subsection prohibits any insurer or agent from including in the notice of cancellation or refusal to renew, any additional disclosure statements required by state or federal laws, or any additional information relating to the availability of other insurance.

F. Nothing in this section shall apply:

1. If the insurer or its agent acting on behalf of the insurer has manifested its willingness to renew by issuing or offering to issue a renewal policy, certificate, or other evidence of renewal, or has

manifested its willingness to renew in writing to the insured. The written manifestation shall include the name of a proposed insurer, the expiration date of the policy, the type of insurance coverage, and information regarding the estimated renewal premium. The insurer shall retain a copy of each written manifestation for a period of at least one year from the expiration date of any policy that is not renewed;

2. If the named insured, or his duly constituted attorney-in-fact, has notified the insurer or its agent orally, or in writing, if the insurer requires such notification to be in writing, that he wishes the policy to be canceled or that he does not wish the policy to be renewed, or if prior to the date of expiration he fails to accept the offer of the insurer to renew the policy;

3. To any motor vehicle insurance policy which has been in effect less than 60 days when the termination notice is mailed or delivered to the insured, unless it is a renewal policy; or

4. If an affiliated insurer has manifested its willingness to provide coverage at a lower premium than would have been charged for the same exposures on the expiring policy. The affiliated insurer shall manifest its willingness to provide coverage by issuing a policy with the types and limits of coverage at least equal to those contained in the expiring policy unless the named insured has requested a change in coverage or limits. When such offer is made by an affiliated insurer, an offer of renewal shall not be required of the insurer of the expiring policy, and the policy issued by the affiliated insurer shall be deemed to be a renewal policy.

G. There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner or his subordinates; any insurer, its authorized representatives, its agents, or its employees; or any person furnishing to the insurer information as to reasons for cancellation or refusal to renew, for any statement made by any of them in complying with this section or for providing information pertaining to the cancellation or refusal to renew. For the purposes of this section, no insurer shall be required to furnish a notice of cancellation or refusal to renew to anyone other than the named insured, any person designated by the named insured, or any other person to whom such notice is required to be given by the terms of the policy and the Commissioner.

H. Within 15 days of receipt of the notice of cancellation or refusal to renew, any insured or his attorney shall be entitled to request in writing to the Commissioner that he review the action of the insurer in canceling or refusing to renew the policy of the insured. Upon receipt of the request, the Commissioner shall promptly begin a review to determine whether the insurer's cancellation or refusal to renew complies with the requirements of this section and of § 38.2-2208 if the notice was sent by mail or delivered electronically. The policy shall remain in full force and effect during the pendency of the review by the Commissioner except where the cancellation or refusal to renew is for the reason set forth in subdivision D 2 of subsection D of this section, in which case the policy shall terminate as of the effective date stated in the notice. Where the Commissioner finds from the review that the cancellation or refusal to renew has not complied with the requirements of this section or of § 38.2-2208, he shall immediately notify the insurer, the insured and any other person to whom such notice was required to be given by the terms of the policy that the cancellation or refusal to renew is not effective. Nothing in this section authorizes the Commissioner to substitute his judgment as to underwriting for that of the insurer. Where the Commissioner finds in favor of the insured, the Commission in its discretion may award the insured reasonable attorneys' fees.

I. Each insurer shall maintain for at least one year, records of cancellation and refusal to renew and copies of every notice or statement referred to in subsection E of this section that it sends to any of its insureds.

J. The provisions of this section shall not apply to any insurer that limits the issuance of policies of motor vehicle liability insurance to one class or group of persons engaged in any one particular profession, trade, occupation, or business. Nothing in this section requires an insurer to renew a policy of motor vehicle insurance if the insured does not conform to the occupational or membership requirements of an insurer who limits its writings to an occupation or membership of an organization. No insurer is required to renew a policy if the insured becomes a nonresident of Virginia.

K. Notwithstanding any other provision of this section, a motor vehicle insurance policy with a policy period or term of five months or less may expire at its expiration date when the insurer has manifested in writing its willingness to renew the policy for at least 30 days and has mailed or delivered the written manifestation to the insured at least 15 days before the expiration date of the policy. The written manifestation shall include the name of the proposed insurer, the expiration date of the policy, the type of insurance coverage, and the estimated renewal premium. The insurer shall retain a copy of the written manifestation for at least one year from the expiration date of any policy that is not renewed.

**§ 38.2-2213. Discrimination in issuance of motor vehicle insurance.**

No insurer or agent shall refuse to issue a motor vehicle insurance policy as defined in § 38.2-2212 solely because of any one or more of the following factors: the age, sex, residence, race, color, creed, national origin, ancestry, marital status, *sexual orientation*, *gender identity*, or lawful occupation, including the military service, of the person seeking the coverage. Nothing in this section prohibits any



insurer from limiting the issuance of motor vehicle insurance policies to those who are residents of this Commonwealth nor does this section prohibit any insurer from limiting the issuance of motor vehicle insurance policies only to persons engaging in or who have engaged in a particular profession or occupation, or who are members of a particular religious sect. Nothing in this section prohibits any insurer from setting rates in accordance with relevant actuarial data.

**§ 40.1-121. Requisites of apprentice agreement.**

Every apprentice agreement entered into under this chapter shall contain:

1. The names, signatures, and addresses of the contracting parties;
2. The date of birth of the apprentice;
3. The contact information of the Program Sponsor and the Division of Registered Apprenticeship;
4. A statement of the occupation or business that the apprentice is to be taught and the time at which the apprenticeship will begin and end;
5. A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related or supplemental instruction;
6. A statement setting forth a schedule of the processes in the occupation or industry division in which the apprentice is to be taught and the approximate time to be spent at each process;
7. A statement of the graduated scale of wages to be paid the apprentice and whether the required related instruction shall be compensated;
8. A statement providing for a period of probation of not less than 500 hours of employment and instruction extending over not less than four months, during which time the apprentice agreement shall be terminated by the Commissioner at the request in writing of either party, and providing that after such probationary period the apprentice agreement may be terminated by the Commissioner by mutual agreement of all parties thereto, or cancelled by the Commissioner for good and sufficient reason;
9. A reference incorporating as part of the agreement the standards of the apprenticeship program as they exist on the date of the agreement and as they may be amended during the period of the agreement;
10. A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training without discrimination on the basis of race, color, religion, national origin, *sexual orientation*, *gender identity*, or sex;
11. Contact information, including name, address, phone number, and email if appropriate, of the appropriate authority designated under the program to receive, process, and make disposition of controversies or differences arising out of the apprenticeship agreement when the controversies or differences cannot be adjusted locally or resolved in accordance with the established procedure or applicable collective bargaining provisions;
12. A provision that an employer who is unable to fulfill his obligation under the apprentice agreement may, with the approval of the Commissioner, transfer such contract to any other employer if (i) the apprentice consents, (ii) such other employer agrees to assume the obligations of the apprentice agreement, and (iii) the transfer is reported to the registration agency within 30 days of the transfer; and
13. Such additional terms and conditions as may be prescribed or approved by the Commissioner not inconsistent with the provisions of this chapter.

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

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