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SENATE BILL NO. 909

Offered January 19, 2018

A *BILL to amend and reenact §§ 36-96.1, 36-96.1:1, and 36-96.3 of the Code of Virginia, relating to the Virginia Fair Housing Law; unlawful discriminatory housing practices.*

Patron—McClellan

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-96.1, 36-96.1:1, and 36-96.3 of the Code of Virginia are amended and reenacted as follows:

§ 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, *source of funds*, 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

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59 addiction to a controlled substance as defined in Virginia or federal law. For the purposes of this
60 chapter, the terms "handicap" and "disability" shall be interchangeable.

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

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

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

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

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

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

86 "*Source of funds*" means any source that lawfully provides funds to or on behalf of a renter or buyer
87 of housing, including any assistance, benefit, or subsidy program, whether such program is administered
88 by a governmental or nongovernmental entity.

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

91 **§ 36-96.3. Unlawful discriminatory housing practices.**

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

93 1. ~~To refuse~~ *Refuse* to sell or rent after the making of a bona fide offer or ~~to~~ refuse to negotiate for
94 the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race,
95 color, religion, national origin, sex, elderliness, *source of funds*, or familial status;

96 2. ~~To discriminate~~ *Discriminate* against any person in the terms, conditions, or privileges of sale or
97 rental of a dwelling, or in the provision of services or facilities in the connection therewith to any
98 person because of race, color, religion, national origin, sex, elderliness, *source of funds*, or familial
99 status;

100 3. ~~To make~~ *Make*, print, or publish, or cause to be made, printed, or published any notice, statement,
101 or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation,
102 or discrimination or an intention to make any such preference, limitation, or discrimination based on
103 race, color, religion, national origin, sex, elderliness, familial status, *source of funds*, or handicap. The
104 use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima
105 facie evidence of an illegal preference under this chapter which shall not be overcome by a general
106 disclaimer. However, reference alone to places of worship, including, but not limited to, churches,
107 synagogues, temples, or mosques in any such notice, statement, or advertisement shall not be prima facie
108 evidence of an illegal preference;

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

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

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

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

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

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

132 B. For the purposes of this section, discrimination includes: (i) a refusal to permit, at the expense of
133 the handicapped person, reasonable modifications of existing premises occupied or to be occupied by
134 any person if such modifications may be necessary to afford such person full enjoyment of the premises;
135 except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition
136 permission for a modification on the renter's agreeing to restore the interior of the premises to the
137 condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make
138 reasonable accommodations in rules, practices, policies, or services when such accommodations may be
139 necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection
140 with the design and construction of covered multi-family dwellings for first occupancy after March 13,
141 1991, a failure to design and construct dwellings in such a manner that:

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

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

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

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

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