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## SENATE BILL NO. 97

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws  
on February 18, 2020)

(Patron Prior to Substitute—Senator McClellan)

A BILL to amend and reenact §§ 36-96.3 and 36-96.17 of the Code of Virginia, relating to the Virginia Fair Housing Law; unlawful discriminatory housing practices.

**Be it enacted by the General Assembly of Virginia:****1. That §§ 36-96.3 and 36-96.17 of the Code of Virginia are amended and reenacted as follows:****§ 36-96.3. Unlawful discriminatory housing practices.**

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

1. To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, *sexual orientation*, *gender identity*, sex, elderliness, or familial status;2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in the connection therewith to any person because of race, color, religion, national origin, *sexual orientation*, *gender identity*, sex, elderliness, or familial status;3. To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation, or discrimination based on race, color, religion, national origin, *sexual orientation*, *gender identity*, sex, elderliness, familial status, or handicap. The use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence of an illegal preference under this chapter which shall not be overcome by a general disclaimer. However, reference alone to places of worship including, but not limited to, churches, synagogues, temples, or mosques in any such notice, statement or advertisement shall not be prima facie evidence of an illegal preference;4. To represent to any person because of race, color, religion, national origin, *sexual orientation*, *gender identity*, sex, elderliness, familial status, or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;5. To deny any person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership, or participation because of race, color, religion, national origin, *sexual orientation*, *gender identity*, sex, elderliness, familial status, or handicap;6. To include in any transfer, sale, rental, or lease of housing, any restrictive covenant that discriminates because of race, color, religion, national origin, *sexual orientation*, *gender identity*, sex, elderliness, familial status, or handicap or for any person to honor or exercise, or attempt to honor or exercise any such discriminatory covenant pertaining to housing;7. To induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, *sexual orientation*, *gender identity*, sex, elderliness, familial status, or handicap;

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

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

B. For the purposes of this section, discrimination includes: (i) a refusal to permit, at the expense of 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

60 March 13, 1991, a failure to design and construct dwellings in such a manner that:

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

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

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

72 *C. It shall be an unlawful discriminatory housing practice for any political jurisdiction or its*  
73 *employees or appointed commissions to discriminate in the application of local land use ordinances or*  
74 *guidelines, or in the permitting of housing developments, (i) on the basis of race, color, religion,*  
75 *national origin, sexual orientation, gender identity, sex, elderliness, familial status, or handicap or (ii)*  
76 *because the housing development contains or is expected to contain affordable housing units occupied*  
77 *or intended for occupancy by families or individuals with incomes at or below 80 percent of the median*  
78 *income of the area where the housing development is located or is proposed to be located, unless at the*  
79 *time of the municipal decision, a proposed development will be located in a census tract wherein more*  
80 *than 50 percent of the units serve families or individuals at or below 80 percent of the median income*  
81 *of the area.*

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

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

89 **§ 36-96.17. Civil action by Attorney General; matters involving the legality of any local zoning**  
90 **or other land use ordinance; pattern or practice cases; or referral of conciliation agreement for**  
91 **enforcement.**

92 A. If the Board determines, after consultation with the Office of the Attorney General, that an  
93 alleged discriminatory housing practice involves (i) the legality of any local zoning or land use  
94 ordinance or (ii) activity proscribed in subsection C of § 36-96.3, instead of issuing a charge, the Board  
95 shall immediately refer the matter to the Attorney General for civil action in the appropriate circuit court  
96 for appropriate relief. A civil action under this subsection shall be commenced no later than the  
97 expiration of ~~eighteen~~ 18 months after the date of the occurrence or the termination of the alleged  
98 discriminatory housing practice.

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

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

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

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

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

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

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

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

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