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HOUSE BILL NO. 532

Offered January 12, 2022

Prefiled January 11, 2022

A *BILL to amend and reenact §§ 2.2-2901.1, 2.2-3900, 2.2-3902, 2.2-3904, 2.2-3905, 15.2-853, 15.2-854, 15.2-965, 15.2-1500.1, 15.2-1604, 22.1-295.2, 36-96.1 through 36-96.3, 36-96.4, 36-96.6, and 55.1-1310 of the Code of Virginia, relating to public accommodations, employment, and housing; prohibited discrimination on the basis of political affiliation.*

Patron—Convirs-Fowler

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2901.1, 2.2-3900, 2.2-3902, 2.2-3904, 2.2-3905, 15.2-853, 15.2-854, 15.2-965, 15.2-1500.1, 15.2-1604, 22.1-295.2, 36-96.1 through 36-96.3, 36-96.4, 36-96.6, and 55.1-1310 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2901.1. Employment discrimination prohibited.

A. As used in this section :

"Age" means being an individual who is at least 40 years of age.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

B. No state agency, institution, board, bureau, commission, council, or instrumentality of the Commonwealth shall discriminate in employment on the basis of race, color, religion, *political affiliation*, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or military status.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of (a) sex or age in those instances when sex or age is a bona fide occupational qualification for employment, (b) *political affiliation in those instances where the person is appointed or directly employed by an official elected in an election in which parties are allowed to nominate candidates*, or ~~(b)~~ (c) disability when using the alternative application process provided for in § 2.2-1213 or (ii) providing preference in employment to veterans.

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

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

B. It is the policy of the Commonwealth to:

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

2. Safeguard all individuals within the Commonwealth from unlawful discrimination in employment because of race, color, religion, *political affiliation*, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, disability, or military status;

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

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

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

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

The provisions of this chapter shall be construed liberally for the accomplishment of its policies.

Conduct that violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, military status, disability, or national origin is an unlawful discriminatory practice under this chapter.

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

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

64 Complaints filed with the Office of Civil Rights of the Department of Law (the Office) in accordance
65 with § 2.2-520 alleging unlawful discriminatory practice under a Virginia statute that is enforced by a
66 Virginia agency shall be referred to that agency. The Office may investigate complaints alleging an
67 unlawful discriminatory practice under a federal statute or regulation and attempt to resolve it through
68 conciliation. Unsolved complaints shall thereafter be referred to the federal agency with jurisdiction over
69 the complaint. Upon such referral, the Office shall have no further jurisdiction over the complaint. The
70 Office shall have no jurisdiction over any complaint filed under a local ordinance adopted pursuant to
71 § 15.2-965.

72 **§ 2.2-3904. Nondiscrimination in places of public accommodation; definitions.**

73 A. As used in this section:

74 "Age" means being an individual who is at least 18 years of age.

75 "Place of public accommodation" means all places or businesses offering or holding out to the
76 general public goods, services, privileges, facilities, advantages, or accommodations.

77 B. It is an unlawful discriminatory practice for any person, including the owner, lessee, proprietor,
78 manager, superintendent, agent, or employee of any place of public accommodation, to refuse, withhold
79 from, or deny any individual, or to attempt to refuse, withhold from, or deny any individual, directly or
80 indirectly, any of the accommodations, advantages, facilities, services, or privileges made available in
81 any place of public accommodation, or to segregate or discriminate against any such person in the use
82 thereof, or to publish, circulate, issue, display, post, or mail, either directly or indirectly, any
83 communication, notice, or advertisement to the effect that any of the accommodations, advantages,
84 facilities, privileges, or services of any such place shall be refused, withheld from, or denied to any
85 individual on the basis of race, color, religion, *political affiliation*, national origin, sex, pregnancy,
86 childbirth or related medical conditions, age, sexual orientation, gender identity, marital status, disability,
87 or military status.

88 C. The provisions of this section shall not apply to a private club, a place of accommodation owned
89 by or operated on behalf of a religious corporation, association, or society that is not in fact open to the
90 public, or any other establishment that is not in fact open to the public.

91 D. The provisions of this section shall not prohibit (i) discrimination against individuals who are less
92 than 18 years of age or (ii) the provision of special benefits, incentives, discounts, or promotions by
93 public or private programs to assist persons who are 50 years of age or older.

94 E. The provisions of this section shall not supersede or interfere with any state law or local
95 ordinance that prohibits a person under the age of 21 from entering a place of public accommodation.

96 **§ 2.2-3905. Nondiscrimination in employment; definitions; exceptions.**

97 A. As used in this section:

98 "Age" means being an individual who is at least 40 years of age.

99 "Domestic worker" means an individual who is compensated directly or indirectly for the
100 performance of services of a household nature performed in or about a private home, including services
101 performed by individuals such as companions, babysitters, cooks, waiters, butlers, valets, maids,
102 housekeepers, nannies, nurses, janitors, laundresses, caretakers, handymen, gardeners, home health aides,
103 personal care aides, and chauffeurs of automobiles for family use. "Domestic worker" does not include
104 (i) a family member, friend, or neighbor of a child, or a parent of a child, who provides child care in
105 the child's home; (ii) any child day program as defined in § 22.1-289.02 or an individual who is an
106 employee of a child day program; or (iii) any employee employed on a casual basis in domestic service
107 employment to provide companionship services for individuals who, because of age or infirmity, are
108 unable to care for themselves.

109 "Employee" means an individual employed by an employer.

110 "Employer" means a person employing (i) 15 or more employees for each working day in each of 20
111 or more calendar weeks in the current or preceding calendar year, and any agent of such a person or (ii)
112 one or more domestic workers. However, (a) for purposes of unlawful discharge under subdivision B 1
113 on the basis of race, color, religion, *political affiliation*, national origin, military status, sex, sexual
114 orientation, gender identity, marital status, disability, pregnancy, or childbirth or related medical
115 conditions including lactation, "employer" means any person employing more than five persons or one
116 or more domestic workers and (b) for purposes of unlawful discharge under subdivision B 1 on the
117 basis of age, "employer" means any employer employing more than five but fewer than 20 persons.

118 "Employment agency" means any person, or an agent of such person, regularly undertaking with or
119 without compensation to procure employees for an employer or to procure for employees opportunities
120 to work for an employer.

"Joint apprenticeship committee" means the same as that term is defined in § 40.1-120.

"Labor organization" means an organization engaged in an industry, or an agent of such organization, that exists for the purpose, in whole or in part, of dealing with employers on behalf of employees concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment. "Labor organization" includes employee representation committees, groups, or associations in which employees participate.

"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.

B. It is an unlawful discriminatory practice for:

1. An employer to:

a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to such individual's compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, military status, disability, or national origin; or

b. Limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, military status, disability, or national origin.

2. An employment agency to:

a. Fail or refuse to refer for employment, or otherwise discriminate against, any individual because of such individual's race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin; or

b. Classify or refer for employment any individual on the basis of such individual's race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin.

3. A labor organization to:

a. Exclude or expel from its membership, or otherwise discriminate against, any individual because of such individual's race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin;

b. Limit, segregate, or classify its membership or applicants for membership, or classify or fail to or refuse to refer for employment any individual, in any way that would deprive or tend to deprive such individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect an individual's status as an employee or as an applicant for employment, because of such individual's race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin; or

c. Cause or attempt to cause an employer to discriminate against an individual in violation of subdivisions a or b.

4. An employer, labor organization, or joint apprenticeship committee to discriminate against any individual in any program to provide apprenticeship or other training program on the basis of such individual's race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin.

5. An employer, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of employment-related tests on the basis of race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin.

6. Except as otherwise provided in this chapter, an employer to use race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin as a motivating factor for any employment practice, even though other factors also motivate the practice.

7. (i) An employer to discriminate against any employees or applicants for employment, (ii) an employment agency or a joint apprenticeship committee controlling an apprenticeship or other training program to discriminate against any individual, or (iii) a labor organization to discriminate against any member thereof or applicant for membership because such individual has opposed any practice made an unlawful discriminatory practice by this chapter or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

8. An employer, labor organization, employment agency, or joint apprenticeship committee controlling an apprenticeship or other training program to print or publish, or cause to be printed or published, any notice or advertisement relating to (i) employment by such an employer, (ii) membership in or any classification or referral for employment by such a labor organization, (iii) any classification or referral for employment by such an employment agency, or (iv) admission to, or employment in, any program established to provide apprenticeship or other training by such a joint apprenticeship committee that indicates any preference, limitation, specification, or discrimination based on race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, *political affiliation*, sex, age, or national origin when religion, *political affiliation*, sex, age, or national origin is a bona fide occupational qualification for employment.

C. Notwithstanding any other provision of this chapter, it is not an unlawful discriminatory practice:

1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or refer for employment, any individual; (iii) a labor organization to classify its membership or to classify or refer for employment any individual; or (iv) an employer, labor organization, or joint apprenticeship committee to admit or employ any individual in any apprenticeship or other training program on the basis of such individual's religion, *political affiliation*, sex, or age in those certain instances where religion, *political affiliation*, sex, or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular employer, employment agency, labor organization, or joint apprenticeship committee;

2. For an elementary or secondary school or institution of higher education to hire and employ employees of a particular religion if such elementary or secondary school or institution of higher education is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society or if the curriculum of such elementary or secondary school or institution of higher education is directed toward the propagation of a particular religion;

3. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment, pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin;

4. For an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or an action upon the results is not designed, intended, or used to discriminate because of race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin;

5. For an employer to provide reasonable accommodations related to disability, pregnancy, childbirth or related medical conditions, and lactation, when such accommodations are requested by the employee; or

6. For an employer to condition employment or premises access based upon citizenship where the employer is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute or regulation of the federal government or any executive order of the President of the United States.

D. Nothing in this chapter shall be construed to require any employer, employment agency, labor organization, or joint apprenticeship committee to grant preferential treatment to any individual or to any group because of such individual's or group's race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, 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, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, *political affiliation*, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin in any community.

E. The provisions of this section shall not apply to the employment of individuals of a particular religion by a religious corporation, association, educational institution, or society to perform work associated with its activities.

F. The provisions of this section shall not apply to the employment of individuals of a particular

political affiliation by a political party, association, or society to perform work associated with its political activities.

§ 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, *political affiliation*, sex, pregnancy, childbirth or related medical conditions, national origin, military status, age, marital status, sexual orientation, gender identity, or disability. The board may enact an ordinance establishing a local commission on human rights that 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;
3. With the approval of the county attorney, to seek, through appropriate enforcement authorities, prevention of or relief from a violation of any ordinance prohibiting discrimination; and
4. To exercise such other powers and duties as provided in this article. However, the commission shall have no power itself to issue subpoenas, award damages, or grant injunctive relief.

For the purposes of this article, unless the context requires otherwise:

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

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

§ 15.2-854. Investigations.

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

§ 15.2-965. Human rights ordinances and commissions.

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

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

C. As used in this section:

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

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, or homosexuality.

§ 15.2-1500.1. Employment discrimination prohibited; sexual orientation or gender identity.

A. As used in this article, unless the context requires a different meaning:

"Age" means being an individual who is at least 40 years of age.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

B. No department, office, board, commission, agency, or instrumentality of local government shall discriminate in employment on the basis of race, color, religion, *political affiliation*, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or military status.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (ii) providing preference in employment to veterans.

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

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

1. To fail or refuse to appoint or hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of appointment or employment, because of such individual's race, color, religion, *political affiliation*, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, national origin, or military status; or

2. To limit, segregate, or classify his appointees, employees, or applicants for appointment or employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of the individual's race, color, religion, *political affiliation*, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, national origin, or military status.

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

C. With regard to notices and advertisements:

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

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

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

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

F. As used in this section, "military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

§ 22.1-295.2. Employment discrimination prohibited.

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

B. No school board or any agent or employee thereof shall discriminate in employment on the basis of race, color, religion, *political affiliation*, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or military status.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (ii) providing preference in employment to veterans.

§ 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, *political affiliation*, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, military status, or disability, 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 ensured. 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 requires a different meaning:

"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.

"Disability" 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 "disability" and "handicap" shall be interchangeable.

"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

428 securing legal custody of any individual who has not attained the age of 18 years. For purposes of this
429 section, "in the process of securing legal custody" means having filed an appropriate petition to obtain
430 legal custody of such minor in a court of competent jurisdiction.

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

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

434 "Major life activities" includes any the following functions: caring for oneself, performing manual
435 tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

436 "Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C.
437 § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a
438 veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except
439 that the support provided by the service member to the individual shall have been provided 180 days
440 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
441 under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C.
442 Chapter 50.

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

447 "Physical or mental impairment" includes any of the following: (i) any physiological disorder or
448 condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body
449 systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs;
450 cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii)
451 any mental or psychological disorder, such as an intellectual or developmental disability, organic brain
452 syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment"
453 includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral
454 palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human
455 immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug
456 addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.

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

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

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

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

469 **§ 36-96.2. Exemptions.**

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

489 B. Except for subdivision A 3 of § 36-96.3, this chapter shall not apply to rooms or units in

dwelling 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, *political affiliation*, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military status, or disability. 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 that 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, or 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 by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in federal law.

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

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

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

H. Nothing in this chapter shall prohibit a landlord from considering evidence of an applicant's status as a victim of family abuse, as defined in § 16.1-228, to mitigate any adverse effect of an otherwise qualified applicant's application pursuant to subsection D of § 55.1-1203.

I. Nothing in this chapter shall prohibit an owner or an owner's managing agent from denying or limiting the rental or occupancy of a rental dwelling unit to a person because of such person's source of funds, provided that such owner does not own more than four rental dwelling units in the Commonwealth at the time of the alleged discriminatory housing practice. However, if an owner, whether individually or through a business entity, owns more than a 10 percent interest in more than four rental dwelling units in the Commonwealth at the time of the alleged discriminatory housing practice, the exemption provided in this subsection shall not apply.

J. It shall not be unlawful under this chapter for an owner or an owner's managing agent to deny or limit a person's rental or occupancy of a rental dwelling unit based on the person's source of funds for that unit if such source is not approved within 15 days of the person's submission of the request for tenancy approval.

§ 36-96.3. Unlawful discriminatory housing practices.

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

1. Refuse to sell or rent after the making of a bona fide offer or 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, *political affiliation*, national origin, sex, elderliness, source of funds, familial status, sexual orientation, gender identity, or military status;

2. 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, *political affiliation*, national origin, sex, elderliness, source of funds, familial

551 status, sexual orientation, gender identity, or military status;

552 3. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or
553 advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or
554 discrimination or an intention to make any such preference, limitation, or discrimination on the basis of
555 race, color, religion, *political affiliation*, national origin, sex, elderliness, familial status, source of funds,
556 sexual orientation, gender identity, military status, or disability. The use of words or symbols associated
557 with a particular religion, *political affiliation*, national origin, sex, or race shall be prima facie evidence
558 of an illegal preference under this chapter that shall not be overcome by a general disclaimer. However,
559 reference alone to places of worship, including churches, synagogues, temples, or mosques, in any such
560 notice, statement, or advertisement shall not be prima facie evidence of an illegal preference;

561 4. Represent to any person because of race, color, religion, *political affiliation*, national origin, sex,
562 elderliness, familial status, source of funds, sexual orientation, gender identity, military status, or
563 disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact
564 so available;

565 5. Deny any person access to membership in or participation in any multiple listing service, real
566 estate brokers' organization, or other service, organization, or facility relating to the business of selling
567 or renting dwellings or discriminate against such person in the terms or conditions of such access,
568 membership, or participation because of race, color, religion, *political affiliation*, national origin, sex,
569 elderliness, familial status, source of funds, sexual orientation, gender identity, military status, or
570 disability;

571 6. Include in any transfer, sale, rental, or lease of housing any restrictive covenant that discriminates
572 because of race, color, religion, *political affiliation*, national origin, sex, elderliness, familial status,
573 source of funds, sexual orientation, gender identity, military status, or disability or for any person to
574 honor or exercise, or attempt to honor or exercise, any such discriminatory covenant pertaining to
575 housing;

576 7. Induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or
577 prospective entry into the neighborhood of a person or persons of a particular race, color, religion,
578 *political affiliation*, national origin, sex, elderliness, familial status, source of funds, sexual orientation,
579 gender identity, military status, or disability;

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

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

588 B. For the purposes of this section, discrimination includes (i) a refusal to permit, at the expense of
589 the disabled person, reasonable modifications of existing premises occupied or to be occupied by any
590 person if such modifications may be necessary to afford such person full enjoyment of the premises;
591 except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition
592 permission for a modification on the renter's agreeing to restore the interior of the premises to the
593 condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make
594 reasonable accommodations in rules, practices, policies, or services when such accommodations may be
595 necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection
596 with the design and construction of covered multi-family dwellings for first occupancy after March 13,
597 1991, a failure to design and construct dwellings in such a manner that:

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

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

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

609 C. It shall be an unlawful discriminatory housing practice for any political jurisdiction or its
610 employees or appointed commissions to discriminate in the application of local land use ordinances or
611 guidelines, or in the permitting of housing developments, (i) on the basis of race, color, religion,
612 *political affiliation*, national origin, sex, elderliness, familial status, source of funds, sexual orientation,

gender identity, military status, or disability; (ii) because the housing development contains or is expected to contain affordable housing units occupied or intended for occupancy by families or individuals with incomes at or below 80 percent of the median income of the area where the housing development is located or is proposed to be located; or (iii) by prohibiting or imposing conditions upon the rental or sale of dwelling units, provided that the provisions of this subsection shall not be construed to prohibit ordinances related to short-term rentals as defined in § 15.2-983. It shall not be a violation of this chapter if land use decisions or decisions relating to the permitting of housing developments are based upon considerations of limiting high concentrations of affordable housing.

D. 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 disabled people shall be deemed to satisfy the requirements of subdivision B 3.

E. Nothing in this chapter shall be construed to invalidate or limit any Virginia law or regulation that requires dwellings to be designed and constructed in a manner that affords disabled 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 is 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, *political affiliation*, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military status, or disability. It is not 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, *political affiliation*, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military status, or disability.

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.

§ 36-96.6. Certain restrictive covenants void; instruments containing such covenants.

A. Any restrictive covenant and any related reversionary interest, purporting to restrict occupancy or ownership of property on the basis of race, color, religion, *political affiliation*, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military status, or disability, whether heretofore or hereafter included in an instrument affecting the title to real or leasehold property, are declared to be void and contrary to the public policy of the Commonwealth.

B. Any person who is asked to accept a document affecting title to real or leasehold property may decline to accept the same if it includes such a covenant or reversionary interest until the covenant or reversionary interest has been removed from the document. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage, or otherwise deal with such property.

C. No person shall solicit or accept compensation of any kind for the release or removal of any covenant or reversionary interest described in subsection A. Any person violating this subsection shall be liable to any person injured thereby in an amount equal to the greater of three times the compensation solicited or received, or \$500, plus reasonable attorney fees and costs incurred.

674 D. A family care home, foster home, or group home in which individuals with physical disabilities,
675 mental illness, intellectual disability, or developmental disability reside, with one or more resident
676 counselors or other staff persons, shall be considered for all purposes residential occupancy by a single
677 family when construing any restrictive covenant which purports to restrict occupancy or ownership of
678 real or leasehold property to members of a single family or to residential use or structure.

679 **§ 55.1-1310. Sale or lease of manufactured home by manufactured home owner.**

680 A. For purposes of this section, "military status" means status as (i) a member of the uniformed
681 forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named
682 under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined
683 in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall
684 have been provided 180 days immediately preceding an alleged action that if proven true would
685 constitute unlawful discrimination under this section instead of 180 days immediately preceding an
686 application for relief under 50 U.S.C. Chapter 50.

687 B. No landlord shall unreasonably refuse or restrict the sale or rental of a manufactured home located
688 in his manufactured home park by a tenant. No landlord shall prohibit the manufactured home owner
689 from placing a "for sale" sign on or in the owner's home except that the size, placement, and character
690 of all signs are subject to the rules and regulations of the manufactured home park. Prior to selling or
691 leasing the manufactured home, the tenant shall give notice to the landlord, including the name of the
692 prospective vendee or lessee if the prospective vendee or lessee intends to occupy the manufactured
693 home in that manufactured home park. The landlord shall have the burden of proving that his refusal or
694 restriction regarding the sale or rental of a manufactured home was reasonable. The refusal or restriction
695 of the sale or rental of a manufactured home exclusively or predominantly based on the age of the home
696 shall be considered unreasonable. Any refusal or restriction based on race, color, religion, *political*
697 *affiliation*, national origin, military status, familial status, marital status, elderliness, disability, sexual
698 orientation, gender identity, sex, or pregnancy, childbirth or related medical conditions shall be
699 conclusively presumed to be unreasonable.