

LD1852188

HOUSE BILL NO. 1196

Offered January 25, 1994

A BILL to amend and reenact §§ 36-96.16, 36-96.17, 36-96.18, and 36-96.23 of the Code of Virginia, relating to the Virginia Fair Housing Law.

Patrons—Cunningham, Almand, Darner and Van Landingham; Senators: Lambert, Maxwell and Miller, Y.B.

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-96.16, 36-96.17, 36-96.18, and 36-96.23 of the Code of Virginia are amended and reenacted as follows:

§ 36-96.16. Civil action by Attorney General upon referral of charge by the Real Estate Board.

A. Not later than thirty days after a charge is referred by the Board to the Attorney General under § 36-96.14, the Attorney General shall commence and maintain a civil action seeking relief on behalf of the complainant in the circuit court for the city, county, or town in which the unlawful discriminatory housing practice has occurred or is about to occur.

B. Any aggrieved person with respect to the issues to be determined in a civil action pursuant to subsection A may intervene as of right.

C. In a civil action under this section, if the court *or jury* finds that a discriminatory housing practice has occurred or is about to occur, the court *or jury* may grant, as relief, any relief which a court could grant with respect to such discriminatory housing practice in a civil action under § 36-96.18. Any relief so granted that would accrue to an aggrieved person under § 36-96.18 shall also accrue to the aggrieved person in a civil action under this section. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court in the course of the action brought under this section.

D. In any court proceeding arising under this section, the court, in its discretion, may allow the prevailing party reasonable attorney's fees and costs.

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

A. If the Board determines, after consultation with the Office of the Attorney General, that an alleged discriminatory housing practice involves the legality of any local zoning or land use ordinance, instead of issuing a charge, the Board shall immediately refer the matter to the Attorney General for civil action in the appropriate circuit court for appropriate relief. A civil action under this subsection shall be commenced no later than the expiration of eighteen months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

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

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

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

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

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

2. Award such other relief as the court deems appropriate, including compensatory and punitive damages to the person aggrieved; and

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

4 3. Award the prevailing party reasonable attorney's fees and costs. The Commonwealth shall be

INTRODUCED

HB1196

60 liable for such fees and costs to the extent provided by the Code of Virginia.

61 *The court or jury may award such other relief as the court deems appropriate, including*
62 *compensatory and punitive damages to the person aggrieved.*

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

68 § 36-96.18. Civil action; enforcement by private parties.

69 A. An aggrieved person may commence a civil action in an appropriate United States district court
70 or state court not later than two years after the occurrence or the termination of an alleged
71 discriminatory housing practice, or the breach of a conciliation agreement entered into under this
72 chapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing
73 practice or breach.

74 B. An aggrieved person may commence a civil action under § 36-96.18 A no later than 180 days
75 after the conclusion of the administrative process with respect to a complaint or charge, or not later than
76 two years after the occurrence or the termination of an alleged discriminatory housing practice,
77 whichever is later. This subsection shall not apply to actions arising from a breach of a conciliation
78 agreement. An aggrieved person may commence a civil action under this section whether or not a
79 complaint has been filed under § 36-96.9 and without regard to the status of any such complaint. If the
80 Board or a federal agency has obtained a conciliation agreement with the consent of an aggrieved
81 person, no action may be filed under this section by such aggrieved person with respect to the alleged
82 discriminatory housing practice which forms the basis for such complaint except for the purpose of
83 enforcing the terms of such an agreement.

84 C. In a civil action under subsection A, if the court *or jury* finds that a discriminatory housing
85 practice has occurred or is about to occur, the court *or jury* may award to the plaintiff, as the prevailing
86 party, compensatory and punitive damages, *and the court may award* reasonable attorney's fees and
87 costs, and subject to subsection D, may grant as relief, any permanent or temporary injunction,
88 temporary restraining order, or other order, including an order enjoining the defendant from engaging in
89 such practice or order such affirmative action as may be appropriate.

90 D. Relief granted under subsection C shall not affect any contract, sale, encumbrance, or lease
91 consummated before the granting of such relief and involving bona fide purchasers, encumbrancer or
92 tenant, without actual notice of the filing of a complaint with the Board or civil action under this
93 chapter.

94 E. Upon timely application, the Attorney General may intervene in such civil action, if the Attorney
95 General certifies that the case is of general public importance. Upon intervention, the Attorney General
96 may obtain such relief as would be available to the private party under subsection C.

97 § 36-96.23. Construction of law.

98 Nothing in this chapter shall abridge the federal Fair Housing Act of 1968 (42 U.S.C. § 3601 et seq.)
99 as amended. *In particular, the availability of punitive damages under this chapter shall not be limited by*
100 *the statutory maximum established in § 8.01-38.1.*