

2000 SESSION

LEGISLATION NOT PREPARED BY DLS
INTRODUCED

009818624

HOUSE BILL NO. 1504

Offered January 24, 2000

A *BILL to amend and reenact §§ 2.1-1.7, 9-6.25:2, 51.5-1, 51.5-2, 51.5-33, and 51.5-39 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 53, containing articles numbered 1 through 5, consisting of sections numbered 2.1-807 through 2.1-849; and to repeal Chapter 10.2 (§ 2.1-116.10 et seq.), Chapter 43 (§ 2.1-714 et seq.) of Title 2.1, Chapter 5.1 (§ 36-96.1 et seq.) of Title 36, Chapter 8 (§ 51.5-36 et seq.) and Chapter 9 (§ 51.5-40 et seq.) of Title 51.5 of the Code of Virginia, relating to the Virginia Civil Rights Act of 2000; penalty.*

Patron—Baskerville

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.7, 9-6.25:2, 51.5-1, 51.5-2, 51.5-33, and 51.5-39 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 53, containing articles numbered 1 through 5, consisting of sections numbered 2.1-807 through 2.1-849, as follows:

§ 2.1-1.7. State councils.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies either affiliated with more than one agency or independent of an agency within the executive branch:

Adult Education and Literacy, Virginia Advisory Council for
Aging, Commonwealth Council on
Agricultural Council, Virginia
Apprenticeship Council
Blue Ridge Regional Education and Training Council
Child Day-Care Council
Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion
Coastal Land Management Advisory Council, Virginia
Commonwealth Competition Council
Commonwealth's Attorneys' Services Council
Developmental Disabilities Planning Council, Virginia
Disability Services Council
~~Equal Employment Opportunity Council, Virginia~~
Housing for the Disabled, Interagency Coordinating Council on
~~Human Rights, Council on~~
Human Services Information and Referral Advisory Council
Indians, Council on
Interagency Coordinating Council, Virginia
Job Training Coordinating Council, Governor's
Land Evaluation Advisory Council
Maternal and Child Health Council
Military Advisory Council, Virginia
Needs of ~~Handicapped~~ Disabled Persons, Overall Advisory Council on the
Prevention, Virginia Council on Coordinating
Public Records Advisory Council, State
Rate-setting for Children's Facilities, InterDepartmental Council on
Revenue Estimates, Advisory Council on
Specialized Transportation Council
State Health Benefits Advisory Council
Status of Women, Council on the
Substance Abuse Services Council
Virginia Business-Education Partnership Program, Advisory Council on the
Virginia Recycling Markets Development Council
Workforce Council, Virginia.

B. Notwithstanding the definition for "council" as provided in § 2.1-1.2, the following entities shall be referred to as councils:

Higher Education, State Council of

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Independent Living Council, Statewide
Rehabilitation Advisory Council, Statewide
Rehabilitation Advisory Council for the Blind, Statewide
Transplant Council, Virginia.

CHAPTER 53.
VIRGINIA CIVIL RIGHTS COMMISSION.

Article 1.

General Provisions.

§ 2.1-807. Short title.

This chapter shall be known and may be cited as the Virginia Civil Rights Act of 2000.

§ 2.1-808. Declaration of policy.

It is the policy of the Commonwealth of Virginia:

1. *To safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status or disability, in places of public accommodation, including educational institutions and in real estate transactions; in employment; to preserve the public safety, health and general welfare; and to further the interests, rights and privileges of individuals within the Commonwealth; and*

2. *To protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.*

§ 2.1-809. Construction of chapter; other programs to aid persons with disabilities, minors and the elderly.

A. *Except as provided in Article 4 of this chapter, the provisions of this chapter shall be construed liberally for the accomplishment of the policies herein. Nothing contained in this chapter shall be deemed to repeal, supersede or expand upon any of the provisions of any other state or federal law relating to discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status or disability.*

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

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

D. *A local human rights or human relations commission established prior to the effective date of this article, in addition to the powers granted under this article, may exercise any such additional powers as may have been granted heretofore to that commission pursuant to applicable provisions of §§ 15.2-725, 15.2-853 and 15.2-854 or municipal charter provisions.*

§ 2.1-810. Creation of Commission; number, election and terms of members, vacancies; members to devote entire time to office; Chair; administrative provisions.

A. *There is hereby established as an independent agency of the Commonwealth, exclusive of the legislative, executive or judicial branches of government, the Virginia Commission for Civil Rights.*

B. *The Commission shall consist of three members who shall be chosen by joint vote of the two houses of the General Assembly during the month of January of each regular session of the General Assembly convened in an even-numbered year, who shall serve for terms of six years from the first day of February next succeeding election; provided that the first three members of the Commission shall be elected in January 2001 with one member elected for one year, one member elected for three years, one member elected for five years.*

C. *Whenever a vacancy occurs or exists when the General Assembly is in session, the General Assembly shall elect a successor for the unexpired term. If the General Assembly is not in session, the Governor shall forthwith appoint pro tempore a qualified person to fill the vacancy for a term ending thirty days after the commencement of the next General Assembly Session, and the General Assembly shall elect a successor for the unexpired term.*

D. *Not more than one person of the Commission shall be a person who on account of his previous vocation, employment or affiliation shall be classified as a representative of employers, civil rights defendants or service providers, and not more than one such appointee shall be a person who on account of his previous vocation, employment or affiliation shall be classed as a representative of employees, civil rights complainants or service recipients. The Commission thus composed shall elect one of its number Chair for a term of three years commencing on July 1, 2001, and each succeeding three years thereafter; provided that the three members elected in January 2001 shall immediately elect a Chair to serve until July 1, 2001. Each member of the Commission shall devote his entire time to the duties of the office and shall not hold any position of trust or profit or engage in any occupation or*

business interfering or inconsistent with the duties of a commissioner.

E. The Commission shall be provided with adequate offices in the City of Richmond, in which the records shall be kept and its official business transacted during such business hours as the Commission shall establish. The Commission shall also be provided with necessary office furniture, stationery and other supplies.

F. The Commission or any member thereof may hold sessions at any place within the Commonwealth as may be deemed necessary by the Commission.

G. Each member of the Commission shall receive a salary as provided in the general appropriation act. All salaries and expenses of the Commission shall be audited by the Auditor of Public Accounts and shall be paid out of the state treasury in the manner prescribed for similar expenses in other commissions or branches of state government.

H. Whenever in this title and in the Code of Virginia, reference is made to a division, Commission or agency hereinafter transferred to this Commission, it means the Virginia Commission for Civil Rights, through the division to which the powers and duties of that division, Commission or agency are assigned.

§ 2.1-811. General powers and duties of the Commission.

A. It shall be the duty of the Commission to administer this title and mediate and adjudicate issues and controversies related thereto.

B. The Commission shall appoint the General Counsel of the Virginia Commission for Civil Rights who shall serve as the chief administrative and legal officer of the Commission.

C. The Commission or any member thereof or the General Counsel may for the purposes of this title subpoena witnesses, administer, or cause to be administered oaths, and examine or cause to be examined such parts of the books and records of the parties to a proceeding as related to questions in dispute arising in instances in which the Commission has the power to mediate or adjudicate complaints.

D. The Commission shall publish, and upon request, furnish free of charge, such blank forms and literature as it shall deem necessary to facilitate or promote efficient administration of this title.

E. The Commission shall have authority to:

1. Adopt, promulgate, amend and revoke regulations consistent with this chapter. The regulations shall be in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.);

2. Receive, investigate, seek to conciliate, refer to another agency, hold hearings pursuant to the Administrative Process Act, and make findings and recommendations upon complaints alleging unlawful discriminatory practices or unfounded charges of unlawful discrimination that are filed in writing within 180 days of the alleged discriminatory events;

3. Attempt to conciliate any complaint of unlawful discrimination under this chapter;

4. Hold a hearing or take other appropriate action, in the event conciliation fails;

5. Promote creation of local commissions to aid in effectuating the policies of this article and to enter into cooperative worksharing or other agreements with federal agencies or local commissions, including the deferral of complaints of discrimination to federal agencies or local commissions;

6. Make studies and appoint advisory councils to effectuate the purposes and policies of the article and make the results thereof available to the public;

7. Accept public grants or private gifts, bequests or other payments, as appropriate;

8. Render at least annually a comprehensive written report to the Governor and to the General Assembly;

9. Furnish technical assistance upon request of persons subject to this chapter to further comply with the article or an order issued thereunder;

10. Inquire into incidents which may constitute unlawful acts of discrimination or unfounded charges of unlawful discrimination under state or federal law and take such action within the Commission's authority as may be designed to prevent such acts; and

11. Create an official seal that shall be judicially noticed.

§ 2.1-812. Additional powers of the Commission.

The Commission shall have the following additional powers, all of which may be exercised by the General Counsel of the Commission or with the General Counsel's approval, by a division of the Commission with respect to matters assigned to that division:

1. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including but not limited to, contracts with the United States, other state agencies and governmental subdivisions of the Commonwealth;

2. Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Commission shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable; and

3. Do all acts necessary or convenient to carry out the purposes of this chapter.

§ 2.1-813. *Supervision of Commission; duties of the General Counsel.*

A. *The General Counsel shall be responsible for the overall supervision of the Commission's divisions, programs and personnel. The head of each division, however, shall be vested with the power and duty of carrying out the provisions of this chapter as they pertain to that division. Nothing in this section shall limit the authority of the General Counsel to assign or reassign the duties of the Commission's divisions to each of these divisions as may best perform them.*

B. *The General Counsel of the Virginia Commission for Civil Rights shall exercise such powers and perform such duties as are conferred or imposed by law.*

C. *The General Counsel shall also:*

1. *Employ such deputy general counsels, division directors, professional staff including attorneys and legal assistants, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Commission;*

2. *Act as secretary and executive officer of the Commission; and*

3. *Report immediately to the Governor and the General Assembly any matters that require immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this chapter or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of this chapter.*

C. *Commence legal action in the name of the Commission to:*

1. *Seek prompt judicial relief;*

2. *Obtain compliance with subpoenas; and*

3. *Obtain and enforce compliance with all provisions of title.*

§ 2.1-814. *Confidentiality.*

It shall be unlawful for any officer, employee or member of the Commission to make public, prior to a public hearing pursuant to this chapter, investigative notes and other correspondence and information furnished to the Commission in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice; however, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information. A violation of this section shall be a Class 3 misdemeanor.

Article 2.

Fair Housing Division.

§ 2.1-815. *Division of Fair Housing created.*

There is hereby established within the Virginia Civil Rights Commission, a Division of Fair Housing. The Division shall be headed by a Deputy General Counsel who shall be a person qualified by knowledge, skills and abilities to administer and direct the provision of advice and other services regarding fair housing.

§ 2.1-816. *Declaration of policy.*

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

B. *It is the policy of the Commonwealth to provide for fair housing throughout the Commonwealth to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial 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 insured. This law shall be deemed an exercise of the police power of the Commonwealth for the protection of the people of the Commonwealth.*

§ 2.1-817. *Definitions.*

For the purposes of this article, 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.*

"Complainant" *means a person, including the Commission, who files a complaint under § 2.1-831.*

"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 Commission.*

"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 which 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. Neither the term "individual with disability" nor the term "disability" shall apply to an individual solely because that individual is a transvestite.*

"Discriminatory housing practices" means an act that is unlawful under §§ 2.1-819, 2.1-820, 2.1-821 or § 2.1-822.

"Dwelling" means any building, structure, or portion thereof, which is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land which 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 eighteen 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 eighteen 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.

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

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

"Respondent" means any person or other entity alleged to have violated the provisions of this article, as stated in a complaint filed under the provisions of this article and any other person joined pursuant to the provisions of § 2.1-831.

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

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

§ 2.1-818. Exemptions.

A. Except as provided in § 2.1-819 A 3, this article shall not apply to any single-family house sold or rented by an owner, provided that such private individual does not own more than three single-family houses at any one time. In the case of the sale of any single-family house by a private individual-owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to sale, the exemption granted shall apply only with respect to one such sale within any twenty-four-month period; provided that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempt from the application of this article only if the house is sold or rented without (i) the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of the facilities or the services of any person in the business of selling or renting dwellings, or of any employee, independent contractor, or agent of any broker, agent, salesperson, or person and (ii) the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this article. However, nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title. This exemption shall not apply to or inure to the benefit of any licensee of the Real Estate Board, regardless of whether the licensee is acting in his personal or professional capacity.

B. Except for § 2.1-819 A 3, this article shall not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

C. Nothing in this article 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 which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, elderliness, familial status, or disability. Nor shall anything in this article apply to a private membership club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. Nor, where matters of personal privacy are involved, shall anything in this article be

306 construed to prohibit any private, state-owned or state-supported educational institution, hospital,
307 nursing home, religious or correctional institution, from requiring that persons of both sexes not occupy
308 any single-family residence or room or unit of dwellings or other buildings, or restrooms in such room
309 or unit in dwellings or other buildings, which it owns or operates.

310 D. Nothing in this article prohibits conduct against a person because such person has been convicted
311 by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled
312 substance as defined in federal law.

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

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

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

331 § 2.1-819. Unlawful discriminatory housing practices.

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

333 1. Refuse to sell or rent after the making of a bona fide offer or refuse to negotiate for the sale or
334 rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color,
335 religion, national origin, sex, elderliness, or familial status;

336 2. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a
337 dwelling, or in the provision of services or facilities in the connection therewith to any person because
338 of race, color, religion, national origin, sex, elderliness, or familial status;

339 3. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or
340 advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation,
341 or discrimination or an intention to make any such preference, limitation or discrimination based on
342 race, color, religion, national origin, sex, elderliness, familial status, or disability. The use of words or
343 symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence
344 of an illegal preference under this article which shall not be overcome by a general disclaimer.
345 However, reference alone to places of worship including but not limited to, churches, synagogues,
346 temples or mosques in any such notice, statement or advertisement shall not be prima facie evidence of
347 an illegal preference;

348 4. Represent to any person because of race, color, religion, national origin, sex, elderliness, familial
349 status, or disability that any dwelling is not available for inspection, sale, or rental when such dwelling
350 is in fact so available;

351 5. Deny any person access to membership in or participation in any multiple listing service, real
352 estate brokers' organization, or other service, organization or facility relating to the business of selling
353 or renting dwellings, or to discriminate against such person in the terms or conditions of such access,
354 membership, or participation because of race, color, religion, national origin, sex, elderliness, familial
355 status, or disability;

356 6. Include in any transfer, sale, rental, or lease of housing, any restrictive covenant that
357 discriminates because of race, color, religion, national origin, sex, elderliness, familial status, or
358 disability or for any person to honor or exercise, or attempt to honor or exercise any such
359 discriminatory covenant pertaining to housing;

360 7. Induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or
361 prospective entry into the neighborhood of a person or persons of a particular race, color, religion,
362 national origin, sex, elderliness, familial status, or disability;

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

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

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

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

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

C. Compliance with the appropriate requirements of the American National Standards for Building and Facilities (commonly cited as "ANSI A117.1") or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically disabled people shall be deemed to satisfy the requirements § 2.1-218 B 3.

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

§ 2.1-820. Discrimination in residential real estate-related transactions; unlawful practices by lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.

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

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

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

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

429 section shall not apply.

430 § 2.1-821. *Interference with enjoyment of rights of others under this article.*

431 It shall be an unlawful discriminatory housing practice for any person to coerce, intimidate, threaten,
432 or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or
433 enjoyed, or on the account of his having aided or encouraged any other person in the exercise or
434 enjoyment of, any right granted or protected by this article.

435 § 2.1-822. *Certain restrictive covenants void; instruments containing such covenants.*

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

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

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

449 D. A family care home, foster home, or group home in which physically disabled, mentally ill,
450 mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or
451 other staff persons, shall be considered for all purposes residential occupancy by a single family when
452 construing any restrictive covenant which purports to restrict occupancy or ownership of real or
453 leasehold property to members of a single family or to residential use or structure.

454 § 2.1-823. *Familial status protection not applicable to housing for older persons.*

455 A. Nothing in this article regarding unlawful discrimination because of familial status shall apply to
456 housing for older persons. As used in this section, "housing for older persons" means housing: (i)
457 provided under any state or federal program that is specifically designed and operated to assist elderly
458 persons, as defined in the state or federal program; or (ii) intended for, and solely occupied by, persons
459 sixty-two years of age or older; or (iii) intended for and solely occupied by at least one person fifty-five
460 years of age or older per unit. The following criteria shall be met in determining whether housing
461 qualifies as housing for older persons under clause (iii) of this subsection:

462 1. The existence of significant facilities and services specifically designed to meet the physical or
463 social needs of older persons, or if the provision of such facilities and services is not practicable, that
464 such housing is necessary to provide important housing opportunities for older persons;

465 2. That at least eighty percent of the units are occupied by at least one person fifty-five years of age
466 or older per unit; and

467 3. The publication of, and adherence to, policies and procedures which demonstrate an intent by the
468 owner or manager to provide housing for persons fifty-five years of age or older.

469 B. Housing shall not fail to meet the requirements for housing for older persons by reason of:

470 1. Persons residing in such housing as of September 13, 1988, who do not meet the age
471 requirements of clauses (ii) and (iii) of subsection A, provided that new occupants of such housing meet
472 the age requirements of those clauses; or

473 2. Unoccupied units, provided that such units are reserved for occupancy by persons who meet the
474 provisions of clauses (ii) and (iii) of subsection A.

475 § 2.1-824. *Procedures for receipt or initiation of complaint; notice to parties; filing of answer.*

476 A. A complaint under this article shall be filed with the Commission in writing within one year after
477 the alleged discriminatory housing practice occurred or terminated.

478 B. Any person not named in the complaint and who is identified as a respondent in the course of the
479 investigation may be joined as an additional or substitute respondent upon written notice to such person
480 by the Board explaining the basis for the Board's belief that such person is properly joined as a
481 respondent.

482 C. Any respondent may file an answer to a complaint. Complaints and answers shall be made in
483 writing, under oath or affirmation, and in such form as the Commission requires. Complaints and
484 answers may be reasonably and fairly amended at any time.

485 D. Upon the filing of a complaint or initiation of a complaint by the Commission or its designee, the
486 Commission shall provide written notice to the parties as follows:

487 1. To the aggrieved person acknowledging the filing and advising such person of the time limits and
488 choice of forums under this article; and

489 2. To the respondent, not later than ten days after such filing or the identification of an additional
490 respondent under subsection B, identifying the alleged discriminatory housing practice and advising

such respondent of the procedural rights and obligations of respondents under this article with a copy of the original complaint and copies of any supporting documentation referenced in the complaint.

§ 2.1-825. Procedures for investigation.

A. The Commission shall commence proceedings with respect to a complaint within thirty days after receipt of the complaint and shall complete the investigation within 100 days thereof unless it is impracticable to do so. If the Commission is unable to complete the investigation within 100 days after the receipt of the complaint, the aggrieved person and the respondent shall be notified in writing of the reasons for not doing so.

B. When conducting an investigation of a complaint filed under this article, the Commission shall have the right to interview any person who may have any information which may further its investigation and to request production of any records or documents for inspection and copying in the possession of any person which may further the investigation. Such persons shall be interviewed under oath. The Commission or its designated subordinates shall have the power to issue and serve a subpoena to any such person to appear and testify and to produce any such records or documents for inspection and copying. Said subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served as part of a civil action in the Commonwealth. In case of refusal or neglect to obey a subpoena, the Commission may petition for its enforcement in the Circuit Court for the City of Richmond. The hearing on such petition shall be given priority on the court docket over all cases which are not otherwise given priority on the court docket by law.

C. At the end of each investigation under this section, the Commission shall prepare a final investigative report containing:

1. The names and dates of contacts with witnesses;
2. A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
3. A summary description of other pertinent records;
4. A summary of witness statements; and
5. Answers to interrogatories.

A final report under this subsection may be amended if additional evidence is later discovered.

D. The Commission shall make available to the aggrieved person and the respondent at any time upon request following completion of the Commission's investigation, information derived from an investigation and any final investigative report relating to that investigation.

§ 2.1-826. Reasonable cause determination and effect.

The Commission shall, within 100 days after the filing of a complaint, determine, based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so or unless the Commission has approved a conciliation agreement with respect to the complaint. If the Commission is unable to determine whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur within 100 days after receipt of the complaint, the aggrieved person and the respondent shall be notified in writing of the reasons therefor.

§ 2.1-827. No reasonable cause determination and effect.

If the Commission determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall promptly dismiss the complaint notifying the parties within thirty days of such determination. The Commission shall make public disclosure of each dismissal.

§ 2.1-828. Conciliation.

During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Commission, the Commission shall, to the extent feasible, engage in conciliation with respect to such complaint.

A. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the Commission.

B. A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

C. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Commission determines that disclosure is not required to further the purposes of this article.

D. Whenever the Commission has reasonable cause to believe that a respondent has breached a conciliation agreement, the Commission may file a civil action under § 2.1-831 for the enforcement of such agreement.

§ 2.1-829. Issuance of a charge.

552 Upon failure to resolve a complaint by conciliation, the Commission shall issue a charge on behalf
553 of the aggrieved person or persons and shall immediately refer the charge to the General Counsel who
554 shall proceed with the charge as directed by § 2.1-831. The Commission may not issue a charge under
555 this section regarding an alleged discriminatory housing practice after the beginning of a trial of a civil
556 action commenced by the aggrieved party under an Act of Congress or a state law seeking relief with
557 respect to that discriminatory housing practice.

558 1. Such charge:

559 a. Shall consist of a short and plain statement of the facts upon which the Commission has found
560 reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

561 b. Shall be based on the final investigative report; and

562 c. Need not be limited to the acts or grounds alleged in the complaint filed under § 2.1-824.

563 2. After the Commission issues a charge under this section, the Commission shall cause a copy
564 thereof to be served on each respondent named in such charge and on each aggrieved person on whose
565 behalf the complaint was filed.

566 § 2.1-830. Prompt judicial action.

567 If the Commission concludes at any time following the filing of a complaint that prompt judicial
568 action is necessary to carry out the purposes of this article, the Commission may authorize a civil
569 action by the General Counsel for appropriate temporary or preliminary relief. Upon receipt of such
570 authorization, the General Counsel shall promptly commence and maintain such action. Any temporary
571 restraining order or other order granting preliminary or temporary relief shall be issued in accordance
572 with the Virginia Rules of Civil Procedure. The commencement of a civil action under this section shall
573 not affect the initiation or continuation of administrative proceedings by the Commission under this
574 article.

575 § 2.1-831. Civil action by General Counsel upon referral of charge by the Commission.

576 A. Not later than thirty days after a charge is referred by the Commission, the General Counsel shall
577 commence and maintain a civil action seeking relief on behalf of the complainant in the circuit court for
578 the city, county or town in which the unlawful discriminatory housing practice has occurred or is about
579 to occur.

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

582 C. In a civil action under this section, if the court or jury finds that a discriminatory housing
583 practice has occurred or is about to occur, the court or jury may grant, as relief, any relief which a
584 court could grant with respect to such discriminatory housing practice in a civil action under § 2.1-833.
585 Any relief so granted that would accrue to an aggrieved person under § 2.1-833 shall also accrue to the
586 aggrieved person in a civil action under this section. If monetary relief is sought for the benefit of an
587 aggrieved person who does not intervene in the civil action, the court shall not award such relief if that
588 aggrieved person has not complied with discovery orders entered by the court in the course of the
589 action brought under this section.

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

592 § 2.1-832. Civil action by General Counsel; matters involving the legality of any local zoning or
593 other land use ordinance; pattern or practice cases; or referral of conciliation agreement for
594 enforcement.

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

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

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

610 D. The General Counsel, on behalf of the Commission, or other party at whose request a subpoena
611 is issued under this article, may enforce such subpoena in appropriate proceedings in the appropriate
612 circuit court.

613 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 article as is necessary to assure the full enjoyment of the rights granted by this article.

2. 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.

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

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

F. Upon timely application, any person may intervene in a civil action commenced by the Commission, under subsection A, B or C which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a party to a conciliation agreement. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under § 2.1-833.

§ 2.1-833. Civil action; enforcement by private parties.

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

B. An aggrieved person may commence a civil action under subsection A no later than 180 days after the conclusion of the administrative process with respect to a complaint or charge, or not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, whichever is later. This subsection shall not apply to actions arising from a breach of a conciliation agreement. An aggrieved person may commence a civil action under this section whether or not a complaint has been filed under § 2.1-824 and without regard to the status of any such complaint. If the Commission or a federal agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this section by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

C. In a civil action under subsection A, if the court or jury finds that a discriminatory housing practice has occurred or is about to occur, the court or jury may award to the plaintiff, as the prevailing party, compensatory and punitive damages, without limitation otherwise imposed by state law, and the court may award reasonable attorneys' fees and costs, and subject to subsection D, may grant as relief, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or order such affirmative action as may be appropriate.

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

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

§ 2.1-834. Witness fees.

Witnesses summoned by a subpoena under this article shall be entitled to the same witness and mileage fees as witnesses in proceedings in the courts of the Commonwealth. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Commission.

§ 2.1-835. Additional powers of the Commission; referral to Real Estate Commission for action on real estate licenses; regulations.

A. In any case in which the Commission has received or initiated a complaint and conducted an investigation of any violation of this article and determined that there exists reasonable cause to believe that a licensed broker, salesperson or agency has engaged in discriminatory housing practices prohibited by the Virginia Fair Housing Law (§ 2.1-816 et seq.) or the Virginia Equal Credit Opportunity Act (§ 59.1-21.19 et seq.), the Commission shall immediately refer the matter to the Real Estate Board to attempt to resolve the matter by conference and conciliation, and upon failure to resolve the matter in such manner, may initiate an administrative hearing to determine whether to revoke, suspend or fail to renew the license or licenses in question. Not less than ten days prior to the initial conference hereunder, the Board shall prepare and deliver to the respondent or respondents a

675 written report setting forth the scope, findings and conclusions of the investigation conducted under this
676 section.

677 B. If any person operating under a real estate license issued by the Real Estate Board, pursuant to
678 the provisions of Article 21 (§ 54.1-2100 et seq.) of Title 54.1, is found by a court to have violated any
679 provision of this article and this fact is so certified to the Real Estate Board, the Real Estate Board,
680 after notification to the licensee, shall take appropriate action to consider suspension or revocation of
681 the license of the licensee.

682 C. The Board shall perform all acts necessary and proper to carry out the provisions of this article
683 and may promulgate and amend necessary regulations.

684 § 2.1-836. Powers of counties, cities and towns.

685 A. Any county, city or town which has any ordinance in effect on January 1, 1991, enacted under the
686 Virginia Fair Housing Law (§ 2.1-816 et seq.) or any other applicable state law may continue to
687 enforce such ordinance and may amend the ordinance provided the amendment is not inconsistent with
688 this article. Nothing herein shall be construed to prohibit any county, city or town under this subsection
689 from submitting amended ordinances to the U.S. Department of Housing and Urban Development for
690 substantial equivalency pursuant to Title VIII, Civil Rights Act of 1968 (42 U.S.C. §§ 3604-3606), as
691 amended.

692 B. The governing body of any county, city or town may enact ordinances in accordance with the
693 provisions of this article provided that (i) such ordinances conform to this article and are enacted prior
694 to September 30, 1992, and (ii) such amended ordinances are submitted to the U.S. Department of
695 Housing and Urban Development for a determination of substantial equivalency pursuant to Title VIII,
696 Civil Rights Act of 1968 (42 U.S.C. §§ 3604-3606), as amended.

697 § 2.1-837. Construction of law.

698 Nothing in this article shall abridge the federal Fair Housing Act of 1968 (42 U.S.C. § 3601 et seq.),
699 as amended.

700 Article 3.

701 Division for Rights of People with Disabilities.

702 § 2.1-838. Division created.

703 A. The Department for Rights of Virginians with Disabilities, heretofore existing as an independent
704 agency, is hereby transferred to the Virginia Civil Rights Commission, which shall exercise the powers
705 and duties described in this article through the Division for Rights of People with Disabilities. The
706 Division shall be headed by a Deputy General Counsel who shall be a person qualified by knowledge,
707 skills and abilities to administer and direct the provision of advice and other services regarding the
708 rights of persons with disabilities. The Division shall render assistance to persons with disabilities in the
709 protection of the rights of persons with disabilities under the laws of the Commonwealth and of the
710 United States.

711 § 2.1-839. Division to employ mediation; authority to pursue legal and other remedies.

712 The Division will employ mediation procedures to the maximum extent possible to resolve complaints
713 concerning violations of rights of persons with disabilities, when those rights are related to such
714 disabilities. When such procedures fail, the Division shall have the authority to pursue legal,
715 administrative and other appropriate remedies to protect the rights of persons with disabilities, when
716 those rights are related to such disabilities.

717 § 2.1-840. Nondiscrimination under state grants and programs.

718 No otherwise qualified person with a disability shall, on the basis of disability, be excluded from
719 participation in, be denied the benefits of, or be subjected to discrimination under any program or
720 activity receiving state financial assistance or under any program or activity conducted by or on behalf
721 of any state agency. The Commission shall promulgate such regulations as may be necessary to
722 implement this section. Such regulations shall be consistent, whenever applicable, with regulations
723 imposed under § 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended, and the
724 federal Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), as amended.

725 § 2.1-841. Discrimination against otherwise qualified persons with disabilities by employers
726 prohibited.

727 A. No employer shall discriminate in employment or promotion practices against an otherwise
728 qualified person with a disability solely because of such disability.

729 B. It is the policy of the Commonwealth that persons with disabilities shall be employed in the state
730 service, the service of the political subdivisions of the Commonwealth, in the public schools, and in all
731 other employment supported in whole or in part by public funds on the same terms and conditions as
732 other persons unless it is shown that the particular disability prevents the performance of the work
733 involved.

734 C. An employer shall make reasonable accommodation to the known physical and mental
735 impairments of an otherwise qualified person with a disability, if necessary to assist such person in
736 performing a particular job, unless the employer can demonstrate that the accommodation would impose

an undue burden on the employer.

1. In determining whether an accommodation would constitute an undue burden upon the employer, the following shall be considered:

a. Hardship on the conduct of the employer's business, considering the nature of the employer's operation, including composition and structure of the employer's work force;

b. Size of the facility where employment occurs;

c. The nature and cost of the accommodations needed, taking into account alternate sources of funding or technical assistance included under §§ 51.5-18 and 51.5-26;

d. The possibility that the same accommodations may be used by other prospective employees;

e. Safety and health considerations of the person with a disability, other employees, and the public.

2. Notwithstanding the foregoing, any accommodation which would exceed \$500 in cost shall be rebuttably presumed to impose an undue burden upon any employer with fewer than fifty employees.

3. The employer has the right to choose among equally effective accommodations.

4. Nothing in this section shall require accommodations when the authority to make such accommodations is precluded under the terms of a lease or otherwise prohibited by statute, ordinance or other regulation.

5. Building modifications made for the purposes of such reasonable accommodation may be made without requiring the remainder of the existing building to comply with the requirements of the Uniform Statewide Building Code.

D. Nothing in this section shall prohibit an employer from refusing to hire or promote, from disciplining, transferring, or discharging or taking any other personnel action pertaining to an applicant or an employee who, because of his disability, is unable to adequately perform his duties, or cannot perform such duties in a manner which would not endanger his health or safety or the health or safety of others. Nothing in this section shall subject an employer to any legal liability resulting from the refusal to employ or promote or from the discharge, transfer, discipline of, or the taking of any other personnel action pertaining to a person with a disability who, because of his disability, is unable to adequately perform his duties, or cannot perform such duties in a manner which would not endanger his health or safety or the health or safety of others.

E. Nothing in this section shall be construed as altering the provisions of the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.).

F. No employer who has hired any person because of the requirements of this section shall be liable for any alleged negligence in such hiring.

§ 2.1-842. Discrimination against qualified persons with disabilities by educational institutions prohibited.

A. No public educational institution or private educational institution which is a recipient of state funds, or agent of either, shall deny admission to the institution, or full and equal access to and enjoyment of any of its educational or extracurricular programs, to an otherwise qualified person with a disability who meets the requirements for admission to the institution or the programs, because of such disability.

B. This section shall not apply to any public or private educational institution which is subject to the requirements of § 22.1-215 nor to any private elementary or secondary school, or college or university which is not a recipient of state funds.

§ 2.1-843. Discrimination against qualified persons with disabilities in exercising right to vote prohibited.

No person with a disability who is otherwise entitled to vote under the provisions of § 24.2-400 and who is not disqualified from voting under the provisions of § 24.2-101 shall be denied the opportunity to register or vote in this Commonwealth because of such disability. However, nothing in this section shall be construed to require the release of patients from any state hospital as defined in § 37.1-1 or prisoners of any state correctional facility as defined in § 53.1-1 for purposes of registering to vote or voting.

§ 2.1-844. Rights of persons with disabilities in public places and places of public accommodation.

A. A person with a disability has the same rights as other persons to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities and other public places.

B. A person with a disability is entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, subways, boats or any other public conveyances or modes of transportation, restaurants, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited subject only to the conditions and limitations established by law and applicable alike to all persons.

C. Each town, city or county, individually or through transportation district commissions, shall ensure that persons with disabilities have access to the public transportation within its jurisdiction by

798 either (i) use of the same transportation facilities or carriers available to the general public, or (ii)
799 provision of paratransit or special transportation services for persons with disabilities, or (iii) both. All
800 persons with disabilities in the jurisdiction's service area who, by reason of their disabilities, are unable
801 to use the service for the general public shall be eligible to use such paratransit or special
802 transportation service. No fee which exceeds the fee charged to the general public shall be charged a
803 person with a disability for the use of the same transportation facilities or carriers available to the
804 general public. Paratransit or special transportation service for persons with disabilities may charge
805 fees to such persons comparable to the fees charged to the general public for similar service in the
806 jurisdiction service area, taking into account especially the type, length and time of trip. Any variance
807 between special service and regular service fares shall be justifiable in terms of actual differences
808 between the two kinds of service provided.

809 D. Nothing in this title shall be construed to require retrofitting of any public transit equipment or to
810 require the retrofitting, renovation, or alteration of buildings or places to a degree more stringent than
811 that required by the applicable building code in effect at the time the building permit for such building
812 or place is issued.

813 E. Every totally or partially blind person shall have the right to be accompanied by a dog, in
814 harness, trained as a guide dog, every deaf or hearing-impaired person shall have the right to be
815 accompanied by a dog trained as a hearing dog on a blaze orange leash, and every mobility-impaired
816 person shall have the right to be accompanied by a dog, in a harness or backpack, trained as a service
817 dog in any of the places listed in subsection B without being required to pay an extra charge for the
818 dog; provided that he shall be liable for any damage done to the premises or facilities by such dog. The
819 provisions of this section shall apply to persons accompanied by a dog (i) in harness, which is in
820 training as a guide dog, provided such person is an experienced trainer of guide dogs; (ii) on a blaze
821 orange leash, which is in training as a hearing dog, provided such person is an experienced trainer of
822 hearing dogs; or (iii) in a harness or backpack, which is in training as a service dog, provided such
823 person is an experienced trainer of service dogs.

824 As used in this article, "hearing dog" means a dog trained to alert its owner by touch to sounds of
825 danger and sounds to which the owner should respond.

826 As used in this article, "service dog" means a dog trained to accompany its owner for the purpose of
827 carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

828 As used in this article, "mobility-impaired person" means any person who has completed training to
829 use a dog for service or support because he is unable to move about without the aid of crutches, a
830 wheelchair or any other form of support or because of limited functional ability to ambulate, climb,
831 descend, sit, rise or perform any related function.

832 § 2.1-845. Right of persons with disabilities to housing accommodations.

833 A. All persons with disabilities shall be entitled to full and equal opportunity to acquire, as other
834 members of the general public, any housing accommodations offered for sale, rent, lease, or
835 compensation, subject to the conditions and limitations established by law and applying alike to all
836 persons. "Housing accommodations" for the purpose of this section means any real property, or portion
837 thereof, which is used or occupied or is intended, arranged, or designed to be used or occupied, as the
838 home, residence, or sleeping place of one or more human beings, but shall not include any single family
839 residence the occupant or owner of which rents, leases, or furnishes for compensation not more than
840 one room therein.

841 B. Every visually-impaired person who has a guide dog, any hearing-impaired person who has a
842 hearing dog, and every mobility-impaired person with a service dog, as those terms are defined in
843 § 2.1-844 D, shall be entitled to full and equal access with such dog to all housing accommodations
844 provided for in this section. He shall not be required to pay extra compensation for such dog but shall
845 be liable for any damage done to the premises by such dog.

846 C. Nothing in this section shall require any person offering for sale, renting, leasing, or providing
847 for compensation real property to modify that real property or provide a higher degree of care for a
848 person with a disability than for a person who is not disabled, except as provided in § 36-99.5, nor
849 shall anything in this section require any person who is selling, renting, leasing or providing for
850 compensation real property to sell, rent, lease or provide such property to any person who would
851 constitute a direct threat to the property or safety of others.

852 § 2.1-846. Remedies.

853 A. Any circuit court having chancery jurisdiction and venue pursuant to Title 8.01, on the petition of
854 any person with a disability or the Commission, shall have the right to enjoin the abridgement of rights
855 set forth in this article and to order such affirmative equitable relief as is appropriate and to award
856 compensatory damages and to award to a prevailing party reasonable attorneys' fees, except that a
857 defendant shall not be entitled to an award of attorneys' fees unless the court finds that the claim was
858 frivolous, unreasonable or groundless, or brought in bad faith. Compensatory damages shall not include
859 damages for pain and suffering. Punitive or exemplary damages shall not be awarded.

B. An action may be commenced pursuant to this section any time within one year of the occurrence of any violation of rights under this article. However, such action shall be forever barred unless such claimant or his agent, attorney or representative has commenced such action or has filed by registered mail a written statement of the nature of the claim with the potential defendant or defendants within 180 days of the occurrence of the alleged violation. Any liability for back pay shall not accrue from a date more than 180 days prior to the filing of the notice or bill of complaint and shall be limited to a total of 180 days, reduced by the amount of other earnings over the same period. The petitioner shall have a duty to mitigate damages.

C. The relief available for violations of this article shall be limited to the relief set forth in this section.

Article 4.

Employment Rights Division.

§ 2.1-847. Unlawful discriminatory practice defined.

A. Conduct which violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status or disability shall be an "unlawful discriminatory practice" for the purposes of this article.

§ 2.1-848. Causes of action not created.

A. Nothing in this article creates, nor shall it be construed to create, an independent or private cause of action to enforce its provisions, except as specifically provided in subsections B and C of this section.

B. No employer employing more than five but less than fifteen persons shall discharge any such employee on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, or of age if the employee is forty years or older.

C. The employee may bring an action in a general district or circuit court having jurisdiction over the employer who allegedly discharged the employee in violation of this section. Any such action shall be brought within 180 days from the date of the discharge. The court may award up to twelve months' back pay with interest at the judgment rate as provided in § 6.1-330.54. However, if the court finds that either party engaged in tactics to delay resolution of the complaint, it may (i) diminish the award or (ii) award back pay to the date of judgment without regard to the twelve-month limitation.

In any case where the employee prevails, the court shall award attorneys' fees from the amount recovered, not to exceed twenty-five percent of the back pay awarded. The court shall not award other damages, compensatory or punitive, nor shall it order reinstatement of the employee.

D. Causes of action based upon the public policies reflected in this article shall be exclusively limited to those actions, procedures and remedies, if any, afforded by applicable federal or state civil rights statutes or local ordinances. Nothing in this section shall be deemed to alter, supersede, or otherwise modify the authority of the Commission or of any local human rights or human relations commissions established pursuant to §§ 15.2-853 and 15.2-965 or subject to the provisions of § 2.1-208 D.

Article 5.

Technical Assistance Division.

§ 2.1-849. Technical Assistance Division created.

There shall be created in the Virginia Commission on Civil Rights a Technical Assistance Division which shall provide advice and assistance to individuals and organizations seeking to comply voluntarily with the requirements of this chapter. The Division shall be headed by a Deputy General Counsel who shall be a person qualified by knowledge, skills and abilities to administer and direct the provision of advice and other services regarding voluntary compliance with the requirements of this chapter. The Division shall be separate from the enforcement divisions of the Commission. No information provided to the Technical Assistance Division shall be used in any enforcement action initiated by the Commission.

§ 9-6.25:2. Policy boards, commissions and councils.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following policy boards, commissions and councils:

Apprenticeship Council

Auctioneers Board

Blue Ridge Regional Education and Training Council

Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects

Board for Barbers

Board for Contractors

Board for Cosmetology

921	Board for Geology
922	Board for Hearing Aid Specialists
923	Board for Opticians
924	Board for Professional and Occupational Regulation
925	Board for Professional Soil Scientists
926	Board for Waterworks and Wastewater Works Operators
927	Board of Accountancy
928	Board of Agriculture and Consumer Services
929	Board of Audiology and Speech-Language Pathology
930	Board of Coal Mining Examiners
931	Board of Conservation and Recreation
932	Board of Correctional Education
933	Board of Dentistry
934	Board of Funeral Directors and Embalmers
935	Board of Health Professions
936	Board of Historic Resources
937	Board of Housing and Community Development
938	Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse
939	Treatment Professionals
940	Board of Medical Assistance Services
941	Board of Medicine
942	Board of Mineral Mining Examiners
943	Board of Nursing
944	Board of Nursing Home Administrators
945	Board of Optometry
946	Board of Pharmacy
947	Board of Psychology
948	Board of Social Services
949	Board of Social Work
950	Board of Surface Mining Review
951	Board of Veterinary Medicine
952	Board on Conservation and Development of Public Beaches
953	Cemetery Board
954	Chesapeake Bay Local Assistance Board
955	Child Day-Care Council
956	Commission on Local Government
957	Commonwealth Transportation Board
958	Council on Human Rights
959	Criminal Justice Services Board
960	Design-Build/Construction Management Review Board
961	Disability Services Council
962	Farmers Market Board, Virginia
963	InterDepartmental Council on Rate-setting for Children's Facilities
964	Library Board, The Library of Virginia
965	Marine Resources Commission
966	Milk Commission
967	Pesticide Control Board
968	Real Estate Appraiser Board
969	Real Estate Board
970	Reciprocity Board, Department of Motor Vehicles
971	Safety and Health Codes Board
972	Specialized Transportation Council
973	State Air Pollution Control Board
974	State Board of Corrections
975	State Board of Elections
976	State Board of Health
977	State Board of Juvenile Justice
978	State Health Department, Sewage Handling and Disposal Appeal Review Board
979	State Mental Health, Mental Retardation and Substance Abuse Services Board
980	State Seed Potato Board
981	State Water Control Board
982	Substance Abuse Certification Board

983 Treasury Board, The, Department of the Treasury
 984 Virginia Aviation Board
 985 Virginia Board for Asbestos and Lead
 986 Virginia Fire Services Board
 987 Virginia Gas and Oil Board
 988 Virginia Health Planning Board
 989 Virginia Manufactured Housing Board
 990 Virginia Parole Board
 991 Virginia Public Broadcasting Board
 992 Virginia Soil and Water Conservation Board
 993 Virginia Voluntary Formulary Board
 994 Virginia Waste Management Board
 995 Virginia Workforce Council
 996 Volunteer Firefighters' and Rescue Squad Workers' Pension Fund Board
 997 Waste Management Facility Operators, Board for.
 998 § 51.5-1. Declaration of policy.
 999 It is the policy of this Commonwealth to encourage and enable persons with disabilities to participate
 1000 fully and equally in the social and economic life of the Commonwealth and to engage in remunerative
 1001 employment. To these ends, the General Assembly directs the Governor, ~~Department~~ *Division* for Rights
 1002 of ~~Virginians~~ *People* with Disabilities of the *Virginia Civil Rights Commission*, Department for the
 1003 Aging, Department for the Deaf and Hard-of-Hearing, Department of Education, Department of Health,
 1004 Department of Housing and Community Development, Department of Mental Health, Mental Retardation
 1005 and Substance Abuse Services, Board for ~~Rights of Virginians~~ *People* with Disabilities, Department of
 1006 Rehabilitative Services, Department of Social Services, Department for the Visually Handicapped, and
 1007 such other agencies as the Governor deems appropriate, to provide, in a comprehensive and coordinated
 1008 manner which makes the best use of available resources, those services necessary to assure equal
 1009 opportunity to persons with disabilities in the Commonwealth.
 1010 The provisions of this title shall be known and may be cited as "The Virginians With Disabilities
 1011 Act."
 1012 § 51.5-2. Plan of cooperation.
 1013 The ~~Department~~ *Division* for Rights of ~~Virginians~~ *People* with Disabilities of the *Virginia Civil*
 1014 *Rights Commission*, Department for the Aging, Department for the Deaf and Hard-of-Hearing,
 1015 Department of Education, Department of Health, Department of Housing and Community Development,
 1016 Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of
 1017 Rehabilitative Services, Department of Social Services, Department for the Visually Handicapped and
 1018 such other agencies as are designated by the Governor which serve persons with disabilities shall
 1019 formulate a plan of cooperation in accordance with the provisions of this title and the federal
 1020 Rehabilitation Act. The goal of this plan shall be to promote the fair and efficient provision of
 1021 rehabilitative and other services to persons with disabilities and to protect the rights of persons with
 1022 disabilities.
 1023 The plan of cooperation shall include an annual update of budgetary commitment under the plan,
 1024 specifying how many persons with disabilities, by type of impairment, will be served under the plan.
 1025 The plan of cooperation shall include consideration of first pay provisions for entitlement programs of a
 1026 cooperating agency. If entitlement services are part of a client's individualized written rehabilitation
 1027 program or equivalent plan for services, funds shall be paid from the entitlement program when
 1028 possible. The plan and budgetary commitments shall be reviewed by the respective boards of the
 1029 cooperating agencies, reviewed by the Virginia Board for People with Disabilities and submitted for
 1030 approval to the appropriate secretaries within the Governor's Office before implementation.
 1031 § 51.5-33. Powers and duties.
 1032 The Board shall have the following powers and duties:
 1033 1. To advise the Secretary of Health and Human Resources and Governor on issues and problems of
 1034 interest to persons with disabilities and on such other matters as either the Secretary or the Governor
 1035 may request;
 1036 2. To submit biennially to the Governor, through the Secretary of Health and Human Resources, an
 1037 assessment of the needs of persons with disabilities in the Commonwealth, the success in the preceding
 1038 biennium of the state agencies in meeting those needs, programmatic and fiscal recommendations for
 1039 improving the delivery of services to persons with disabilities, and an assessment of the biennial
 1040 economic cost and benefit to the Commonwealth of the services and rights afforded persons with
 1041 disabilities as established in this title;
 1042 3. To initiate the development of the plan of cooperation required by § 51.5-2;
 1043 4. To serve as the State Planning Council for the administration of certain federal public health and

1044 welfare laws as provided in 42 U.S.C. § 6000;

1045 5. To perform all duties and exercise all powers designated by federal law for such state planning
1046 councils, including the responsibility for planning activities on behalf of all developmentally disabled
1047 persons in the Commonwealth; for receiving, accounting for and disbursing federal funds; for developing
1048 and approving the state plan; and for monitoring and evaluating the implementation of such plan for the
1049 provision of services and facilities for persons with developmental disabilities;

1050 6. To be responsible for obtaining information and data from within the Commonwealth, and from
1051 time to time, but not less than annually, to review and evaluate the state plan and submit such state
1052 plan, and revisions thereto, to the Governor and to the U.S. Secretary of Health and Human Services;

1053 7. *To designate the state agency, which may be the Virginia Commission for Civil Rights or a*
1054 *private not-for-profit organization, for the purpose of cooperating with the federal government in the*
1055 *protection of and advocacy for persons with disabilities under the federal Rehabilitation Act (29 U.S.C.*
1056 *§ 701 et seq.), as amended, the federal Protection and Advocacy for Mentally Ill Individuals Act (42*
1057 *U.S.C. § 10801 et seq.), as amended, and the federal Developmental Disabilities Assistance and Bill of*
1058 *Rights Act (42 U.S.C. § 6000 et seq.), as amended;*

1059 7. 8. To appoint and supervise the Director of the Board and prescribe his duties;

1060 8. 9. To hire such staff and obtain the service of such professional, technical, and clerical personnel
1061 necessary to carry out its powers and duties; and

1062 9. 10. To accept gifts and grants on behalf of the Commonwealth, in furtherance of the purpose of
1063 this Board.

1064 § 51.5-39. Cooperative agreements with state agencies regarding advocacy services for their clients.

1065 Notwithstanding the foregoing, state agencies providing services to persons with disabilities may
1066 develop and maintain advocacy, client assistance or ombudsman services for their clients, which services
1067 may be within the agency and independent of the ~~Department~~ *designated state agency*. The ~~Department~~
1068 *designated state agency* may enter into cooperative agreements with any state agency providing
1069 advocacy, client assistance, or ombudsman services for the agencies' clients, in order to assure the
1070 protection of and advocacy for persons with disabilities, provided that such agreements do not restrict
1071 such authority as the ~~Department~~ *designated state agency* may otherwise have to pursue any legal or
1072 administrative remedy on behalf of persons with disabilities.

1073 2. That Chapter 10.2 (§ 2.1-116.10 et seq.), Chapter 43 (§ 2.1-714 et seq.) of Title 2.1, Chapter 5.1
1074 (§ 36-96.1 et seq.) of Title 36, Chapter 8 (§ 51.5-36 et seq.) and Chapter 9 (§ 51.5-40 et seq.) of
1075 Title 51.5 of the Code of Virginia are repealed.

1076 3. That §§ 2.1-807 through 2.1-814 of this act shall be effective on January 1, 2001, and the
1077 remaining provisions of this act shall become effective on July 1, 2001.

1078 4. That the membership of the "Disability Board" remains unchanged, except for new
1079 appointments.

1080 5. That the Real Estate Board will continue hearing fair housing cases until July 1, 2001.