

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.2-2203.3, 2.2-3004, 2.2-3900 through 2.2-3903, 2.2-4200, 2.2-4310, 2.2-4343.1, 4.1-101.05, 6.2-501, 15.2-853, 15.2-854, 15.2-965, 15.2-1131, 15.2-1507, 15.2-1604, 15.2-6314.1, 22.1-212.6:1, 22.1-306, 22.1-349.3, 23.1-1009, 23.1-1017, 23.1-2213, 23.1-2312, 23.1-2405, 23.1-2415, 23.1-3011, 23.1-3138, 36-55.26, 36-96.1 through 36-96.3, 36-96.4, 36-96.6, 37.2-707, 38.2-508.2, 38.2-2114, 38.2-2115, 38.2-2212, 38.2-2213, 38.2-3407.10, 40.1-121, 46.2-1503.2, 51.1-124.27, 51.5-166, 51.5-170, 55.1-1310, 58.1-3651, 58.1-4024, 62.1-129.1, and 63.2-608 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.2-2901.1, 15.2-1500.1, and 22.1-295.2, relating to prohibited discrimination; sexual orientation and gender identity.

[H 1049]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2203.3, 2.2-3004, 2.2-3900 through 2.2-3903, 2.2-4200, 2.2-4310, 2.2-4343.1, 4.1-101.05, 6.2-501, 15.2-853, 15.2-854, 15.2-965, 15.2-1131, 15.2-1507, 15.2-1604, 15.2-6314.1, 22.1-212.6:1, 22.1-306, 22.1-349.3, 23.1-1009, 23.1-1017, 23.1-2213, 23.1-2312, 23.1-2405, 23.1-2415, 23.1-3011, 23.1-3138, 36-55.26, 36-96.1 through 36-96.3, 36-96.4, 36-96.6, 37.2-707, 38.2-508.2, 38.2-2114, 38.2-2115, 38.2-2212, 38.2-2213, 38.2-3407.10, 40.1-121, 46.2-1503.2, 51.1-124.27, 51.5-166, 51.5-170, 55.1-1310, 58.1-3651, 58.1-4024, 62.1-129.1, and 63.2-608 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-2901.1, 15.2-1500.1, and 22.1-295.2 as follows:

§ 2.2-2203.3. Employees; employment; personnel rules.

A. Employees of the Authority shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt personnel rules, policies, and procedures to give its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination on the basis of race, religion, color, sex, *sexual orientation*, *gender identity*, or national origin.

B. Any employee of the Virginia Commercial Space Flight Authority who is a member of any plan providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) shall continue to be a member of such health insurance plan under the same terms and conditions. Notwithstanding subsection A of § 2.2-2818, the costs of providing health insurance coverage to such employees who elect to continue to be members of the state employees' health insurance plan shall be paid by the Authority. Alternatively, an employee may elect to become a member of any health insurance plan established by the Authority. The Authority is authorized to (i) establish a health insurance plan for the benefit of its employees and (ii) enter into agreements with the Department of Human Resource Management providing for the coverage of its employees under the state employees' health insurance plan, provided that such agreements require the Authority to pay the costs of providing health insurance coverage under such plan.

C. Any retired employee of the Virginia Commercial Space Flight Authority shall be eligible to receive the health insurance credit set forth in § 51.1-1400, provided the retired employee meets the eligibility criteria set forth in that section.

D. The Authority is hereby authorized to establish one or more retirement plans for the benefit of its employees (the Authority retirement plan). For purposes of such plans, the provisions of § 51.1-126.4 shall apply, mutatis mutandis. Any Authority employee who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 (the statutory optional retirement plan) at the time the Authority retirement plan becomes effective shall continue to be a member of the Virginia Retirement System or the statutory optional retirement plan under the same terms and conditions, unless such employee elects to become a member of the Authority retirement plan. For purposes of this subsection, the "Virginia Retirement System" shall include any hybrid retirement program established under Title 51.1.

The following rules shall apply:

1. The Authority shall collect and pay all employee and employer contributions to the Virginia Retirement System or the statutory optional retirement plan for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for any employee who elects to remain a member of the Virginia Retirement System or a statutory optional retirement plan.

2. Employees who elect to become members of the Authority retirement plan shall be given full

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credit for their creditable service as defined in § 51.1-124.3 and vesting and benefit accrual under the Authority retirement plan. For any such employee, employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or any statutory optional retirement plan.

3. For employees who elect to become members of the Authority retirement plan, the Virginia Retirement System or the statutory optional retirement plan, as applicable, shall transfer to the Authority retirement plan assets equal to the actuarially determined present value of the accrued basic benefits for such employees as of the transfer date. For purposes hereof, "basic benefits" means the benefits accrued under the Virginia Retirement System or under the statutory optional retirement plan based on creditable service and average final compensation as defined in § 51.1-124.3. The actuarial present value shall be determined by using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or the statutory optional retirement plan so that the transfer of assets to the Authority retirement plan will have no effect on the funded status and financial stability of the Virginia Retirement System or the statutory optional retirement plan. The Authority shall reimburse the Virginia Retirement System for the cost of actuarial services necessary to determine the present value of the accrued basic benefit of employees who transfer to an Authority retirement plan.

4. The Authority may provide that employees of the Authority who are eligible to participate in any deferred compensation plan sponsored by the Authority shall be enrolled automatically in such plan, unless such employee elects, in a manner prescribed by the Board of the Authority, not to participate. The amount of the deferral under the automatic enrollment and the group of employees to which the automatic enrollment shall apply shall be set by the Board, provided, however, that such employees are provided the opportunity to increase or decrease the amount of the deferral in accordance with the Internal Revenue Code of 1986, as amended.

E. The Authority is hereby authorized to establish a plan providing short-term disability and long-term disability benefits for its employees.

§ 2.2-2901.1. Employment discrimination prohibited; sexual orientation or gender identity.

No agency, institution, board, bureau, commission, council, or instrumentality of the Commonwealth shall discriminate in employment on the basis of sexual orientation or gender identity.

§ 2.2-3004. Grievances qualifying for a grievance hearing; grievance hearing generally.

A. A grievance qualifying for a hearing shall involve a complaint or dispute by an employee relating to the following adverse employment actions in which the employee is personally involved, including but not limited to (i) formal disciplinary actions, including suspensions, demotions, transfers and assignments, and dismissals resulting from formal discipline or unsatisfactory job performance; (ii) the application of all written personnel policies, procedures, rules, and regulations where it can be shown that policy was misapplied or unfairly applied; (iii) discrimination on the basis of race, color, religion, political affiliation, age, disability, national origin, sex, *sexual orientation, or gender identity*; (iv) arbitrary or capricious performance evaluations; (v) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement; and (vi) retaliation for exercising any right otherwise protected by law.

B. Management reserves the exclusive right to manage the affairs and operations of state government. Management shall exercise its powers with the highest degree of trust. In any employment matter that management precludes from proceeding to a grievance hearing, management's response, including any appropriate remedial actions, shall be prompt, complete, and fair.

C. Complaints relating solely to the following issues shall not proceed to a hearing: (i) establishment and revision of wages, salaries, position classifications, or general benefits; (ii) work activity accepted by the employee as a condition of employment or which may reasonably be expected to be a part of the job content; (iii) contents of ordinances, statutes or established personnel policies, procedures, and rules and regulations; (iv) methods, means, and personnel by which work activities are to be carried on; (v) termination, layoff, demotion, or suspension from duties because of lack of work, reduction in work force, or job abolition; (vi) hiring, promotion, transfer, assignment, and retention of employees within the agency; and (vii) relief of employees from duties of the agency in emergencies.

D. Except as provided in subsection A of § 2.2-3003, decisions regarding whether a grievance qualifies for a hearing shall be made in writing by the agency head or his designee within five workdays of the employee's request for a hearing. A copy of the decision shall be sent to the employee. The employee may appeal the denial of a hearing by the agency head to the Director of the Department of Human Resource Management (the Director). Upon receipt of an appeal, the agency shall transmit the entire grievance record to the Department of Human Resource Management within five workdays. The Director shall render a decision on whether the employee is entitled to a hearing upon the grievance

record and other probative evidence.

E. The hearing pursuant to § 2.2-3005 shall be held in the locality in which the employee is employed or in any other locality agreed to by the employee, employer, and hearing officer. The employee and the agency may be represented by legal counsel or a lay advocate, the provisions of § 54.1-3904 notwithstanding. The employee and the agency may call witnesses to present testimony and be cross-examined.

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

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

B. It is the policy of the Commonwealth to:

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

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

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

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

~~2.~~ 5. Protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

§ 2.2-3901. Unlawful discriminatory practice and gender discrimination defined.

Conduct that 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, *sexual orientation, gender identity*, or disability shall be an "unlawful discriminatory practice" for the purposes of this chapter.

The terms "because of sex or gender" or "on the basis of sex or gender" or terms of similar import when used in reference to discrimination in the Code and acts of the General Assembly include because of or on the basis of pregnancy, childbirth, or related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all purposes as persons not so affected but similar in their abilities or disabilities.

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

The provisions of this chapter shall be construed liberally for the accomplishment of its policies. 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, *sexual orientation, gender identity*, or disability.

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

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 18 years (i) where the differentiation is reasonably necessary to normal operation or the activity is based upon reasonable factors other than age or (ii) where the 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.

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

§ 2.2-3903. Causes of action not created.

A. Nothing in this chapter or in Article 4 (§ 2.2-520 et seq.) of Chapter 5 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.

B. No employer employing more than five but less than 15 persons shall discharge any such employee on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, including lactation, *sexual orientation, or gender identity*. No employer employing more than five but less than 20 persons shall discharge any such employee on the basis of age if the employee is 40 years of age or older. For the purposes of this section, "lactation" means a condition that

may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

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 300 days from the date of the discharge or, if the employee has filed a complaint with the Division of Human Rights of the Department of Law or a local human rights or human relations agency or commission within 300 days of the discharge, such action shall be brought within 90 days from the date that the Division or a local human rights or human relations agency or commission has rendered a final disposition on the complaint. The court may award up to 12 months' back pay with interest at the judgment rate as provided in § 6.2-302. 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 12-month limitation.

In any case where the employee prevails, the court shall award attorney fees from the amount recovered, not to exceed 25 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 chapter 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 or § 2.2-3900 shall be deemed to alter, supersede, or otherwise modify the authority of the Division or of any local human rights or human relations commissions established pursuant to § 15.2-853 or 15.2-965.

§ 2.2-4200. Declaration of policy; discrimination prohibited in awarding contracts; definitions.

A. It is declared to be the policy of the Commonwealth to eliminate all discrimination on account of race, color, religion, sex, *sexual orientation*, *gender identity*, or national origin from the employment practices of the Commonwealth, its agencies, and government contractors.

B. In the awarding of contracts, contracting agencies shall not engage in an unlawful discriminatory practice as defined in § 2.2-3901.

C. As used in this chapter, unless the context requires a different meaning:

"Agency" means any agency or instrumentality, corporate or otherwise, of the government of the Commonwealth.

"Contractor" means any individual, partnership, corporation, or association that performs services for or supplies goods, materials, or equipment to the Commonwealth or any agency thereof.

§ 2.2-4310. Discrimination prohibited; participation of small, women-owned, minority-owned, and service disabled veteran-owned businesses and employment services organizations.

A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of race, religion, color, sex, *sexual orientation*, *gender identity*, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, each public body shall include businesses selected from a list made available by the Department of Small Business and Supplier Diversity, which list shall include all companies and organizations certified by the Department.

B. All public bodies shall establish programs consistent with this chapter to facilitate the participation of small businesses, businesses owned by women, minorities, and service disabled veterans, and employment services organizations in procurement transactions. The programs established shall be in writing and shall comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to subsection C or, where applicable, by the chief executive of a local governing body pursuant to § 15.2-965.1, and shall include specific plans to achieve any goals established therein. State agencies shall submit annual progress reports on (i) small, women-owned, and minority-owned business procurement, (ii) service disabled veteran-owned business procurement, and (iii) employment services organization procurement to the Department of Small Business and Supplier Diversity in a form specified by the Department of Small Business and Supplier Diversity. Contracts and subcontracts awarded to employment services organizations and service disabled veteran-owned businesses shall be credited toward the small business, women-owned, and minority-owned business contracting and subcontracting goals of state agencies and contractors. The Department of Small Business and Supplier Diversity shall make information on service disabled veteran-owned procurement available to the Department of Veterans Services upon request.

C. Whenever there exists (i) a rational basis for small business or employment services organization enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the Governor is authorized and encouraged to require state agencies to implement appropriate enhancement or remedial measures consistent with prevailing law. Any enhancement or remedial measure authorized by the Governor pursuant to this subsection for state public bodies may allow for small businesses certified by the Department of Small Business and Supplier Diversity or a subcategory of small businesses established as a part of the enhancement program to have a price preference over noncertified businesses competing for

the same contract award on designated procurements, provided that the bid of the certified small business or the business in such subcategory of small businesses established as a part of an enhancement program does not exceed the low bid by more than five percent.

D. In awarding a contract for services to a small, women-owned, or minority-owned business that is certified in accordance with § 2.2-1606, or to a business identified by a public body as a service disabled veteran-owned business where the award is being made pursuant to an enhancement or remedial program as provided in subsection C, the public body shall include in every such contract of more than \$10,000 the following:

"If the contractor intends to subcontract work as part of its performance under this contract, the contractor shall include in the proposal a plan to subcontract to small, women-owned, minority-owned, and service disabled veteran-owned businesses."

E. In the solicitation or awarding of contracts, no state agency, department, or institution shall discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state agency, department, or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

F. As used in this section:

"Employment services organization" means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

"Minority individual" means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.

3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

4. "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

"Minority-owned business" means a business that is at least 51 percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals, or any historically black college or university as defined in § 2.2-1604, regardless of the percentage ownership by minority individuals or, in the case of a corporation, partnership, or limited liability company or other entity, the equity ownership interest in the corporation, partnership, or limited liability company or other entity.

"Service disabled veteran" means a veteran who (i) served on active duty in the United States military ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

"Service disabled veteran business" means a business that is at least 51 percent owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.

"Small business" means a business, independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or annual gross receipts of \$10 million or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" shall not include any county, city, or town.

"Women-owned business" means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

§ 2.2-4343.1. Permitted contracts with certain religious organizations; purpose; limitations.

A. It is the intent of the General Assembly, in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, to authorize public bodies to enter into contracts with faith-based organizations for the purposes described in this section on the same basis as any other nongovernmental source without impairing the religious character of such organization, and without diminishing the religious freedom of the beneficiaries of assistance provided under this section.

B. For the purposes of this section, "faith-based organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

C. Public bodies, in procuring goods or services, or in making disbursements pursuant to this section, shall not (i) discriminate against a faith-based organization on the basis of the organization's religious character or (ii) impose conditions that (a) restrict the religious character of the faith-based organization, except as provided in subsection F, or (b) impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements.

D. Public bodies shall ensure that all invitations to bid, requests for proposals, contracts, and purchase orders prominently display a nondiscrimination statement indicating that the public body does not discriminate against faith-based organizations.

E. A faith-based organization contracting with a public body (i) shall not discriminate against any recipient of goods, services, or disbursements made pursuant to a contract authorized by this section on the basis of the recipient's religion, religious belief, or refusal to participate in a religious practice; or on the basis of race, age, color, gender, *sexual orientation*, *gender identity*, or national origin and (ii) shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. Nothing in clause (ii) shall be construed to supersede or otherwise override any other applicable state law.

F. Consistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, funds provided for expenditure pursuant to contracts with public bodies shall not be spent for religious worship, instruction, or proselytizing; however, this prohibition shall not apply to expenditures pursuant to contracts, if any, for the services of chaplains.

G. Nothing in this section shall be construed as barring or prohibiting a faith-based organization from any opportunity to make a bid or proposal or contract on the grounds that the faith-based organization has exercised the right, as expressed in 42 U.S.C. (§ 2000 e-1 et seq.), to employ persons of a particular religion.

H. If an individual, who applies for or receives goods, services, or disbursements provided pursuant to a contract between a public body and a faith-based organization, objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

The public body shall provide to each individual who applies for or receives goods, services, or disbursements provided pursuant to a contract between a public body and a faith-based organization a notice in bold face type that states: "Neither the public body's selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the appropriate person as indicated in this form."

§ 4.1-101.05. Employees of the Authority.

A. Employees of the Authority shall be considered employees of the Commonwealth. Employees of the Authority shall be eligible for membership in the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Authority shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt policies and

procedures that afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, *sexual orientation, gender identity*, or disability. Notwithstanding any other provision of law, the Board shall develop, implement, and administer a paid leave program, which may include annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, except as otherwise provided in this section.

B. Notwithstanding any other provision of law, the Authority shall give preference in hiring to special agents and employees of the Department of Alcoholic Beverage Control. The Authority shall issue a written notice to all persons whose employment at the Department of Alcoholic Beverage Control will be transferred to the Authority. The date upon which such written notice is issued shall be referred to herein as the "Option Date." In order to facilitate an orderly and efficient transition and ensure the continuation of operations during the transition from the Department of Alcoholic Beverage Control (the Department) to the Authority, the Authority shall have discretion, subject to the time limitations contained herein, to determine the date upon which any employee's employment with the Department will end or be transferred to the Authority. This date shall be stated in the written notice and shall be referred to herein as the "Transition Date." No Transition Date shall occur prior to July 1, 2018, without the mutual agreement of the employee and the Authority. No Transition Date shall be set beyond December 31, 2018. Each person whose employment will be transferred to the Authority may, by written request made within 180 days of the Option Date, elect not to become employed by the Authority. Any employee of the Department of Alcoholic Beverage Control who (i) is not offered the opportunity to transfer to employment by the Authority or (ii) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act. Any eligibility for such severance benefits shall be contingent on the continued employment through an employee's Transition Date.

C. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 shall continue to be a member of such health insurance plan under the same terms and conditions as if no transfer had occurred.

D. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred.

E. Notwithstanding any other provision of law, any person whose employment is transferred to the Authority as a result of this section and who was subjected to a criminal history background check as a condition of employment with the Department of Alcoholic Beverage Control shall not be subject to the requirements of § 4.1-103.1, unless the Authority deems otherwise.

§ 6.2-501. Prohibited discrimination.

A. It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction:

1. On the basis of race, color, religion, national origin, sex ~~or~~, marital status, *sexual orientation, gender identity*, or age, provided *that* the applicant has the capacity to contract; or

2. Because all or part of the applicant's income derives from any public assistance or social services program.

B. It shall not constitute discrimination for purposes of this chapter for a creditor:

1. To make an inquiry of marital status if such inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and not to discriminate in a determination of creditworthiness;

2. To make an inquiry of the applicant's age or of whether the applicant's income derives from any public assistance or social services program if such inquiry is for the purpose of determining the amount and probable continuance of income levels, credit history, or other pertinent element of creditworthiness as provided in regulations of the Commission;

3. To use any empirically derived credit system which considers age if such system is demonstrably and statistically sound in accordance with regulations of the Commission, except that in the operation of such system the age of an elderly applicant may not be assigned a negative factor or value; or

4. To make an inquiry or to consider the age of an elderly applicant when the age of such applicant is to be used by the creditor in the extension of credit in favor of such applicant.

C. It is not a violation of this section for a creditor to refuse to extend credit offered pursuant to:

1. Any credit assistance program expressly authorized by law for an economically disadvantaged class of persons;

2. Any credit assistance program administered by a nonprofit organization for its members or an economically disadvantaged class of persons; or

3. Any special purpose credit program offered by a profit-making organization to meet special social needs which meets standards prescribed in regulations by the Commission, if such refusal is required by or made pursuant to such program.

§ 15.2-853. Commission on human rights; human rights ordinance.

A county may enact an ordinance prohibiting discrimination in housing, real estate transactions, employment, public accommodations, credit, and education on the basis of race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, age, marital status, *sexual orientation, gender identity*, or disability. The board may enact an ordinance establishing a local commission on human rights ~~which that~~ shall have the following powers and duties:

1. To promote policies to ensure that all persons be afforded equal opportunity;

2. To serve as an agency for receiving, investigating, holding hearings, processing, and assisting in the voluntary resolution of complaints regarding discriminatory practices occurring within the county; and

3. With the approval of the county attorney, to seek, through appropriate enforcement authorities, prevention of or relief from a violation of any ordinance prohibiting discrimination and to exercise such other powers and duties as provided in this article. However, the commission shall have no power itself to issue subpoenas, award damages, or grant injunctive relief.

For the purposes of this article, "person" means one or more individuals, labor unions, partnerships, corporations, associations, legal representatives, mutual companies, joint-stock companies, trusts, or unincorporated organizations.

§ 15.2-854. Investigations.

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

§ 15.2-965. Human rights ordinances and commissions.

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

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

§ 15.2-1131. Establishment of personnel system for city administrative officials and employees.

Notwithstanding any contrary provisions of law, general or special, in the Cities of Norfolk, Richmond, or Virginia Beach, the city council, upon receiving any recommendations submitted to it by the city manager, may establish a personnel system for the city administrative officials and employees. Such system shall be based on merit and professional ability and shall not discriminate on the basis of race, national origin, religion, sex, age, disabilities, political affiliation ~~or~~, marital status, *sexual orientation, or gender identity*. The personnel system shall consist of rules and regulations ~~which that~~ provide for the general administration of personnel matters, a classification plan for employees, a uniform pay plan, and a procedure for resolving grievances of employees as provided by general law for either local government or state government employees.

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

No department, office, board, commission, agency, or instrumentality of local government shall

discriminate in employment on the basis of sexual orientation or gender identity.

§ 15.2-1507. Provision of grievance procedure; training programs.

A. If a local governing body fails to adopt a grievance procedure required by § 15.2-1506 or fails to certify it as provided in this section, the local governing body shall be deemed to have adopted a grievance procedure ~~which~~ that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations adopted pursuant thereto for so long as the locality remains in noncompliance. The locality shall provide its employees with copies of the applicable grievance procedure upon request. The term "grievance" as used herein shall not be interpreted to mean negotiations of wages, salaries, or fringe benefits.

Each grievance procedure, and each amendment thereto, in order to comply with this section, shall be certified in writing to be in compliance by the city, town, or county attorney, and the chief administrative officer of the locality, and such certification filed with the clerk of the circuit court having jurisdiction in the locality in which the procedure is to apply. Local government grievance procedures in effect as of July 1, 1991, shall remain in full force and effect for 90 days thereafter, unless certified and filed as provided above within a shorter time period.

Each grievance procedure shall include the following components and features:

1. Definition of grievance. A grievance shall be a complaint or dispute by an employee relating to his employment, including but not necessarily limited to (i) disciplinary actions, including dismissals, disciplinary demotions, and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance; (ii) the application of personnel policies, procedures, rules, and regulations, including the application of policies involving matters referred to in ~~subdivision clause (iii) of subdivision 2 (iii) below~~; (iii) discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin ~~or~~ sex, *sexual orientation, or gender identity*; and (iv) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement. For the purposes of clause (iv), there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.

2. Local government responsibilities. Local governments shall retain the exclusive right to manage the affairs and operations of government. Accordingly, the following complaints are nongrievable: (i) establishment and revision of wages or salaries, position classification or general benefits; (ii) work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content; (iii) the contents of ordinances, statutes, or established personnel policies, procedures, rules, and regulations; (iv) failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly; (v) the methods, means and personnel by which work activities are to be carried on; (vi) except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition; (vii) the hiring, promotion, transfer, assignment and retention of employees within the local government; and (viii) the relief of employees from duties of the local government in emergencies. In any grievance brought under the exception to clause (vi) ~~of this subdivision~~, the action shall be upheld upon a showing by the local government that: ~~(i)~~ (a) there was a valid business reason for the action and ~~(ii)~~ (b) the employee was notified of the reason in writing prior to the effective date of the action.

3. Coverage of personnel.

a. Unless otherwise provided by law, all nonprobationary local government permanent full-time and part-time employees are eligible to file grievances with the following exceptions:

- (1) Appointees of elected groups or individuals;
 - (2) Officials and employees who by charter or other law serve at the will or pleasure of an appointing authority;
 - (3) Deputies and executive assistants to the chief administrative officer of a locality;
 - (4) Agency heads or chief executive officers of government operations;
 - (5) Employees whose terms of employment are limited by law;
 - (6) Temporary, limited term, and seasonal employees;
 - (7) Law-enforcement officers as defined in Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 whose grievance is subject to the provisions of Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance.
- b. Notwithstanding the exceptions set forth in subdivision 3 a ~~above~~, local governments, at their sole

discretion, may voluntarily include employees in any of the excepted categories within the coverage of their grievance procedures.

c. The chief administrative officer of each local government, or his designee, shall determine the officers and employees excluded from the grievance procedure, and shall be responsible for maintaining an up-to-date list of the affected positions.

4. Grievance procedure availability and coverage for employees of community services boards, redevelopment and housing authorities, and regional housing authorities. Employees of community services boards, redevelopment and housing authorities created pursuant to § 36-4, and regional housing authorities created pursuant to § 36-40 shall be included in (i) a local governing body's grievance procedure or personnel system, if agreed to by the department, board, or authority and the locality or (ii) a grievance procedure established and administered by the department, board, or authority ~~which~~ *that* is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations promulgated pursuant thereto. If a department, board, or authority fails to establish a grievance procedure pursuant to clause (i) or (ii), it shall be deemed to have adopted a grievance procedure ~~which~~ *that* is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations adopted pursuant thereto for so long as it remains in noncompliance.

5. General requirements for procedures.

a. Each grievance procedure shall include not more than four steps for airing complaints at successively higher levels of local government management, and a final step providing for a panel hearing or a hearing before an administrative hearing officer upon the agreement of both parties.

b. Grievance procedures shall prescribe reasonable and specific time limitations for the grievant to submit an initial complaint and to appeal each decision through the steps of the grievance procedure.

c. Nothing contained in this section shall prohibit a local government from granting its employees rights greater than those contained herein, provided *that* such grant does not exceed or violate the general law or public policy of the Commonwealth.

6. Time periods.

a. It is intended that speedy attention to employee grievances be promoted, consistent with the ability of the parties to prepare for a fair consideration of the issues of concern.

b. The time for submitting an initial complaint shall not be less than 20 calendar days after the event giving rise to the grievance, but local governments may, at their option, allow a longer time period.

c. Limits for steps after initial presentation of grievance shall be the same or greater for the grievant than the time ~~which~~ *that* is allowed for local government response in each comparable situation.

d. Time frames may be extended by mutual agreement of the local government and the grievant.

7. Compliance.

a. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure, including the panel or administrative hearing, without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the chief administrative officer, or his designee.

b. The chief administrative officer, or his designee, at his option, may require a clear written explanation of the basis for just cause extensions or exceptions. The chief administrative officer, or his designee, shall determine compliance issues. Compliance determinations made by the chief administrative officer shall be subject to judicial review by filing petition with the circuit court within 30 days of the compliance determination.

8. Management steps.

a. The first step shall provide for an informal, initial processing of employee complaints by the immediate supervisor through a nonwritten, discussion format.

b. Management steps shall provide for a review with higher levels of local government authority following the employee's reduction to writing of the grievance and the relief requested on forms supplied by the local government. Personal face-to-face meetings are required at all of these steps.

c. With the exception of the final management step, the only persons who may normally be present in the management step meetings are the grievant, the appropriate local government official at the level at which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be present only while actually providing testimony. At the final management step, the grievant, at his option, may have present a representative of his choice. If the grievant is represented by legal counsel, local government likewise has the option of being represented by counsel.

9. Qualification for panel or administrative hearing.

a. Decisions regarding grievability and access to the procedure shall be made by the chief administrative officer of the local government, or his designee, at any time prior to the panel hearing, at the request of the local government or grievant, within 10 calendar days of the request. No city, town,

or county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative officer of the local government, or his designee, may be appealed to the circuit court having jurisdiction in the locality in which the grievant is employed for a hearing on the issue of whether the grievance qualifies for a panel hearing. Proceedings for review of the decision of the chief administrative officer or his designee shall be instituted by the grievant by filing a notice of appeal with the chief administrative officer within 10 calendar days from the date of receipt of the decision and giving a copy thereof to all other parties. Within 10 calendar days thereafter, the chief administrative officer or his designee shall transmit to the clerk of the court to which the appeal is taken: a copy of the decision of the chief administrative officer, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the court shall also be furnished to the grievant. The failure of the chief administrative officer or his designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the chief administrative officer to transmit the record on or before a certain date.

b. Within 30 days of receipt of such records by the clerk, the court, sitting without a jury, shall hear the appeal on the record transmitted by the chief administrative officer or his designee and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decision of the chief administrative officer or his designee, or may reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. The decision of the court is final and is not appealable.

10. Final hearings.

a. Qualifying grievances shall advance to either a panel hearing or a hearing before an administrative hearing officer, as set forth in the locality's grievance procedure, as described below:

(1) If the grievance procedure adopted by the local governing body provides that the final step shall be an impartial panel hearing, the panel may, with the exception of those local governments covered by subdivision a (2) of this subsection, consist of one member appointed by the grievant, one member appointed by the agency head and a third member selected by the first two. In the event that agreement cannot be reached as to the final panel member, the chief judge of the circuit court of the jurisdiction wherein the dispute arose shall select the third panel member. The panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of the attorney shall serve as a panel member.

(2) If the grievance procedure adopted by the local governing body provides for the final step to be an impartial panel hearing, local governments may retain the panel composition method previously approved by the Department of Human Resource Management and in effect as of the enactment of this statute. Modifications to the panel composition method shall be permitted with regard to the size of the panel and the terms of office for panel members, so long as the basic integrity and independence of panels are maintained. As used in this section, the term "panel" shall include all bodies designated and authorized to make final and binding decisions.

(3) When a local government elects to use an administrative hearing officer rather than a three-person panel for the final step in the grievance procedure, the administrative hearing officer shall be appointed by the Executive Secretary of the Supreme Court of Virginia. The appointment shall be made from the list of administrative hearing officers maintained by the Executive Secretary pursuant to § 2.2-4024 and shall be made from the appropriate geographical region on a rotating basis. In the alternative, the local government may request the appointment of an administrative hearing officer from the Department of Human Resource Management. If a local government elects to use an administrative hearing officer, it shall bear the expense of such officer's services.

(4) When the local government uses a panel in the final step of the procedure, there shall be a chairperson of the panel and, when panels are composed of three persons (one each selected by the respective parties and the third from an impartial source), the third member shall be the chairperson.

(5) Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives at the hearing. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the panel or hearing officer without being in violation of the provisions of § 54.1-3904.

(6) The decision of the panel or hearing officer shall be final and binding and shall be consistent with provisions of law and written policy.

(7) The question of whether the relief granted by a panel or hearing officer is consistent with written policy shall be determined by the chief administrative officer of the local government, or his designee, unless such person has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the attorney for the Commonwealth of the jurisdiction in which the grievance is pending.

b. Rules for panel and administrative hearings.

Unless otherwise provided by law, local governments shall adopt rules for the conduct of panel or administrative hearings as a part of their grievance procedures, or shall adopt separate rules for such hearings. Rules ~~which~~ *that* are promulgated shall include, but need not be limited to the following provisions:

(1) That neither the panels nor the hearing officer have authority to formulate policies or procedures or to alter existing policies or procedures;

(2) That panels and the hearing officer have the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, and, at the request of either party, the hearing shall be private;

(3) That the local government provide the panel or hearing officer with copies of the grievance record prior to the hearing, and provide the grievant with a list of the documents furnished to the panel or hearing officer, and the grievant and his attorney, at least 10 days prior to the scheduled hearing, shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding;

(4) That panels and hearing officers have the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence;

(5) That all evidence be presented in the presence of the panel or hearing officer and the parties, except by mutual consent of the parties;

(6) That documents, exhibits and lists of witnesses be exchanged between the parties or hearing officer in advance of the hearing;

(7) That the majority decision of the panel or the decision of the hearing officer, acting within the scope of its or his authority, be final, subject to existing policies, procedures and law;

(8) That the panel or hearing officer's decision be provided within a specified time to all parties; and

(9) Such other provisions as may facilitate fair and expeditious hearings, with the understanding that the hearings are not intended to be conducted like proceedings in courts, and that rules of evidence do not necessarily apply.

11. Implementation of final hearing decisions.

Either party may petition the circuit court having jurisdiction in the locality in which the grievant is employed for an order requiring implementation of the hearing decision.

B. Notwithstanding the contrary provisions of this section, a final hearing decision rendered under the provisions of this section ~~which~~ *that* would result in the reinstatement of any employee of a sheriff's office, who has been terminated for cause may be reviewed by the circuit court for the locality upon the petition of the locality. The review of the circuit court shall be limited to the question of whether the decision of the panel or hearing officer was consistent with provisions of law and written policy.

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

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

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

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

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

C. With regard to notices and advertisements:

1. Every constitutional officer shall, prior to hiring any employee, advertise such employment position in a newspaper having general circulation or a state or local government job placement service in such constitutional officer's locality except where the vacancy is to be used (i) as a placement

opportunity for appointees or employees affected by layoff, (ii) as a transfer opportunity or demotion for an incumbent, (iii) to fill positions that have been advertised within the past 120 days, (iv) to fill positions to be filled by appointees or employees returning from leave with or without pay, (v) to fill temporary positions, temporary employees being those employees hired to work on special projects that have durations of three months or less, or (vi) to fill policy-making positions, confidential or personal staff positions, or special, sensitive law-enforcement positions normally regarded as undercover work.

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

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

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

§ 15.2-6314.1. Applicability of the Virginia Personnel Act and the Virginia Public Procurement Act.

A. Employees of an authority created by a locality shall be exempt from the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) if (i) the locality has personnel policies and procedures that are consistent with the goals, objectives, and policies of the Virginia Personnel Act; and (ii) such authority adopts the locality's personnel policies and procedures. In any event, personnel actions shall be taken without regard to race, sex, *sexual orientation*, *gender identity*, color, national origin, religion, age, handicap, or political affiliation.

B. Any authority created under this chapter shall be subject to the terms of the Virginia Public Procurement Act (§ 2.2-4300 et seq.). Notwithstanding the foregoing, should the United States Department of Defense place a federal area on a list of installations to be closed or realigned under the authority granted to the United States Department of Defense pursuant to the federal Defense Base Closure And Realignment Act of 1990 (United States Public Law 101-501, as amended through the National Defense Authorization Act of Fiscal Year 2003), and such federal area is subject to the jurisdiction of an authority created by a locality, such listing of that installation shall qualify as an "emergency" under subsection F of § 2.2-4303 of the Virginia Public Procurement Act.

§ 22.1-212.6:1. Applicability of other laws, regulations, policies, and procedures.

A. Public charter schools are subject to all federal laws and authorities as set forth in this article and the charter contract with the local school board.

B. Public charter schools are subject to the same civil rights, health, and safety requirements applicable to other public schools in the Commonwealth, except as otherwise provided in this article.

C. Public charter schools are subject to the student assessment and accountability requirements applicable to other public schools in the Commonwealth, but nothing in this article precludes a public charter school from establishing additional student assessment measures that go beyond state requirements if the school's authorizer approves such measures.

D. Management committees of public charter schools are subject to and shall comply with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

E. No public charter school shall discriminate against any individual on the basis of disability, race, creed, color, ~~gender~~ *sex*, *sexual orientation*, *gender identity*, national origin, religion, ancestry, or need for special education services or any other unlawful basis, and each public charter school shall be subject to any court-ordered desegregation plan in effect for the school division.

F. No public charter school shall discriminate against any student on the basis of limited proficiency in English, and each public charter school shall provide students who have limited proficiency in English with appropriate services designed to teach such students English and the general curriculum, consistent with federal civil rights laws.

G. No public charter school shall engage in any sectarian practices in its educational program, admissions or employment policies, or operations.

§ 22.1-295.2. Employment discrimination prohibited; sexual orientation or gender identity.

No school board or any agent or employee thereof shall discriminate in employment on the basis of sexual orientation or gender identity.

§ 22.1-306. Definitions.

As used in this article:

"Business day" means any day that the relevant school board office is open.

"Day" means calendar days unless a different meaning is clearly expressed in this article. Whenever the last day for performing an act required by this article falls on a Saturday, Sunday, or legal holiday,

the act may be performed on the next day that is not a Saturday, Sunday, or legal holiday.

"Dismissal" means the dismissal of any teacher during the term of such teacher's contract.

"Grievance" means a complaint or dispute by a teacher relating to his employment, including but not necessarily limited to: (i) disciplinary action including dismissal; (ii) the application or interpretation of: (a) personnel policies, (b) procedures, (c) rules and regulations, (d) ordinances, and (e) statutes; (iii) acts of reprisal against a teacher for filing or processing a grievance, participating as a witness in any step, meeting or hearing relating to a grievance, or serving as a member of a fact-finding panel; and (iv) complaints of discrimination on the basis of race, color, creed, political affiliation, ~~handicap~~ *disability*, age, national origin, ~~or~~ sex, *sexual orientation, or gender identity*. Each school board shall have the exclusive right to manage the affairs and operations of the school division. Accordingly, the term "grievance" shall not include a complaint or dispute by a teacher relating to (1) establishment and revision of wages or salaries, position classifications, or general benefits; (2) suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved continuing contract status; (3) the establishment or contents of ordinances, statutes, or personnel policies, procedures, rules, and regulations; (4) failure to promote; (5) discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in enrollment or abolition of a particular subject, or insufficient funding; (6) hiring, transfer, assignment, and retention of teachers within the school division; (7) suspension from duties in emergencies; (8) the methods, means, and personnel by which the school division's operations are to be carried on; or (9) coaching or extracurricular activity sponsorship.

While these management rights are reserved to the school board, failure to apply, where applicable, the rules, regulations, policies, or procedures as written or established by the school board is grievable.

§ 22.1-349.3. Establishment and operation of college partnership laboratory schools; requirements.

A. A college partnership laboratory school is subject to all federal and state laws and regulations and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, ~~gender~~ *sex, sexual orientation, gender identity*, national origin, religion, ancestry, or need for special education services.

B. Enrollment in college partnership laboratory schools shall be open through a lottery process on a space-available basis to any student who is deemed to reside within the Commonwealth. A waiting list shall be established if adequate space is not available to accommodate all students whose parents have requested to be entered in the lottery process. Such waiting list shall also be prioritized through a lottery process, and parents shall be informed of their student's position on the list. For college partnership laboratory schools that form a collaborative partnership with one or more local school divisions in accordance with subsection G, enrollment in the college partnership laboratory school shall be administered by one of the partnering divisions.

C. A college partnership laboratory school shall be administered and managed by a governing board. Pursuant to a contract and as specified in § 22.1-349.4, a college partnership laboratory school is subject to the requirements of the Standards of Quality, including the Standards of Learning and the Standards of Accreditation, and such regulations as are determined by the Board.

D. Pursuant to a college partnership laboratory school agreement, a college partnership laboratory school is responsible for its own operations, including such budget preparation, contracts for services, and personnel matters as are specified in the agreement. A college partnership laboratory school may also negotiate and contract with a school board, the governing body of an institution of higher education, or any third party for the use of a school building or grounds, the operation and maintenance of such building or grounds, and the provision of any service, activity, or undertaking that the college partnership laboratory school is required to perform in order to carry out the educational program described in its contract. Any services for which a college partnership laboratory school contracts with a school board or institution of higher education shall not exceed the cost to the school division or institution to provide such services.

E. No college partnership laboratory school shall charge tuition for courses required for high school graduation. However, (i) tuition may be charged for courses for which the student receives college credit and enrichment courses that are not required to earn a Board-approved high school diploma and (ii) for college partnership laboratory schools that form a collaborative partnership with one or more local school divisions in accordance with subsection G, the school board of the partnering school division that administers student enrollment in accordance with subsection A may charge tuition in accordance with § 22.1-5 for students who do not reside within the partnering school division.

F. An approved college partnership laboratory school shall be designated as a local education agency but shall not constitute a school division.

G. College partnership laboratory schools are encouraged to develop collaborative partnerships with local school divisions for the purpose of building seamless education opportunities for all preschool through postsecondary students in the Commonwealth. An educational program provided to students

enrolled in a local school division pursuant to a collaborative partnership between the college partnership laboratory school and the local school division is the educational program of the local school division for purposes of the Standards of Accreditation.

§ 23.1-1009. Covered institutions; operational authority; projects.

A. Each covered institution may acquire, plan, design, construct, own, rent as landlord or tenant, operate, control, remove, renovate, enlarge, equip, and maintain, directly or through stock or nonstock corporations or other entities, any project. Such project may be owned or operated by the institution, other persons, or jointly by such institution and other persons and may be operated within or outside the Commonwealth as long as (i) the operations of such project are necessary or desirable to assist the institution in carrying out its public purposes within the Commonwealth and (ii) any private benefit resulting to any such other private persons from any such project is merely incidental to the public benefit of such project.

B. Each covered institution may continue, adopt, and enforce policies for the operation of any facility, including any veterinary facility, hospital, or other health care and related facility owned or operated by the institution. Any such policies pertaining to the operation of any veterinary facility, hospital, or other health care or related facility may include the conditions of practicing any health profession or veterinary medicine in the facility, the admission and treatment of patients, the procedures for determining the qualification of patients for indigent care or other programs, and the protection of patients and employees, provided that such policies do not discriminate on the basis of race, religion, color, sex, *sexual orientation*, *gender identity*, national origin, or any other factor prohibited by law.

§ 23.1-1017. Covered institutions; operational authority; procurement.

A. Subject to the express provisions of the management agreement, each covered institution may be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except for § 2.2-4342, which shall not be construed to require compliance with the prequalification application procedures of subsection B of § 2.2-4317, provided, however, that (i) any deviations from the Virginia Public Procurement Act in the management agreement shall be uniform across all covered institutions and (ii) the governing board of the covered institution shall adopt, and the covered institution shall comply with, policies for the procurement of goods and services, including professional services, that shall (a) be based upon competitive principles, (b) in each instance seek competition to the maximum practical degree, (c) implement a system of competitive negotiation for professional services pursuant to §§ 2.2-4303.1 and 2.2-4302.2, (d) prohibit discrimination in the solicitation and award of contracts based on *the basis of* the bidder's or offeror's race, religion, color, sex, *sexual orientation*, *gender identity*, national origin, age, or disability or on any other basis prohibited by state or federal law, (e) incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354, (f) consider the impact on correctional enterprises under § 53.1-47, and (g) provide that whenever solicitations are made seeking competitive procurement of goods or services, it shall be a priority of the institution to provide for fair and reasonable consideration of small, women-owned, and minority-owned businesses and to promote and encourage a diversity of suppliers.

B. Such policies may (i) provide for consideration of the dollar amount of the intended procurement, the term of the anticipated contract, and the likely extent of competition; (ii) implement a prequalification procedure for contractors or products; and (iii) include provisions for cooperative arrangements with other covered institutions, other public or private educational institutions, or other public or private organizations or entities, including public-private partnerships, public bodies, charitable organizations, health care provider alliances or purchasing organizations or entities, state agencies or institutions of the Commonwealth or the other states, the District of Columbia, the territories, or the United States, and any combination of such organizations and entities.

C. Nothing in this section shall preclude a covered institution from requesting and utilizing the assistance of the Virginia Information Technologies Agency for information technology procurements and covered institutions are encouraged to utilize such assistance.

D. Each covered institution shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Commonwealth's procurement opportunities on one website.

E. As part of any procurement provisions of the management agreement, the governing board of a covered institution shall identify the public, educational, and operational interests served by any procurement rule that deviates from procurement rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

§ 23.1-2213. Medical center management; capital projects; leases of property; procurement.

A. The economic viability of the Medical Center, the requirement for its specialized management and operation, and the need of the Medical Center to participate in cooperative arrangements reflective of changes in health care delivery, as set forth in § 23.1-2212, depend upon the ability of the management

of the Medical Center to make and promptly implement decisions necessary to conduct the affairs of the Medical Center in an efficient, competitive manner. It is critical to and in the best interests of the Commonwealth that the University continues to fulfill its mission of providing quality medical and health sciences education and related research and, through the presence of its Medical Center, continues to provide for the care, treatment, health-related services, and education activities associated with Virginia patients, including indigent and medically indigent patients. Because the ability of the University to fulfill this mission is highly dependent upon revenues derived from providing health care through its Medical Center, and because the ability of the Medical Center to continue to be a reliable source of such revenues is heavily dependent upon its ability to compete with other providers of health care that are not subject to the requirements of law applicable to agencies of the Commonwealth, the University may implement the following modifications to the management and operation of the affairs of the Medical Center in order to enhance its economic viability:

1. a. For any Medical Center capital project entirely funded by a nongeneral fund appropriation made by the General Assembly, all post-appropriation review, approval, administrative, and policy and procedure functions performed by the Department of General Services, the Division of Engineering and Buildings, the Department of Planning and Budget, and any other agency that supports the functions performed by these departments are delegated to the University, subject to the following stipulations and conditions: (i) the board shall develop and implement an appropriate system of policies, procedures, reviews, and approvals for Medical Center capital projects to which this subsection applies; (ii) the system so adopted shall provide for the review and approval of any Medical Center capital project to which this subsection applies to ensure that, except as provided in clause (iii), the cost of any such capital project does not exceed the sum appropriated for the project and the project otherwise complies with all requirements of the Code of Virginia regarding capital projects, excluding only the post-appropriation review, approval, administrative, and policy and procedure functions performed by the Department of General Services, the Division of Engineering and Buildings, the Department of Planning and Budget, and any other agency that supports the functions performed by these departments; (iii) the board may, during any fiscal year, approve a transfer of up to 15 percent of the total nongeneral fund appropriation for the Medical Center to supplement funds appropriated for a capital project of the Medical Center, provided that the board finds that the transfer is necessary to effectuate the original intention of the General Assembly in making the appropriation for the capital project in question; (iv) the University shall report to the Department of General Services on the status of any such capital project prior to commencement of construction of, and at the time of acceptance of, any such capital project; and (v) the University shall ensure that Building Officials and Code Administrators (BOCA) Code and fire safety inspections of any such project are conducted and such projects are inspected by the State Fire Marshal or his designee prior to certification for building occupancy by the University's assistant state building official to whom such inspection responsibility has been delegated pursuant to § 36-98.1. Nothing in this section shall be deemed to relieve the University of any reporting requirement pursuant to § 2.2-1513. Notwithstanding the provisions of this subsection, the terms and structure of any financing of any capital project to which this subsection applies shall be approved pursuant to § 2.2-2416.

b. No capital project to which this subsection applies shall be materially increased in size or materially changed in scope beyond the plans and justifications that were the basis for the project's appropriation unless (i) the Governor determines that such increase in size or change in scope is necessary due to an emergency or (ii) the General Assembly approves the increase or change in a subsequent appropriation for the project. After construction of any such capital project has commenced, no such increase or change shall be made during construction unless the conditions in clause (i) or (ii) have been satisfied.

2. a. The University is exempt from the provisions of § 2.2-1149 and any rules, regulations, and guidelines of the Division of Engineering and Buildings regarding leases of real property that it enters into on behalf of the Medical Center and, pursuant to policies and procedures adopted by the board, may enter into such leases subject to the following conditions: (i) the lease shall be an operating lease and not a capital lease as defined in guidelines established by the Secretary of Finance and generally accepted accounting principles; (ii) the University's decision to enter into such a lease shall be based upon cost, demonstrated need, and compliance with guidelines adopted by the board that direct that (a) competition be sought to the maximum practical degree, (b) all costs of occupancy be considered, and (c) the use of the space to be leased is necessary and efficiently planned; (iii) the form of the lease is approved by the Special Assistant Attorney General representing the University; (iv) the lease otherwise meets all requirements of law; (v) the leased property is certified for occupancy by the building official of the political subdivision in which the leased property is located; and (vi) upon entering such leases and upon any subsequent amendment of such leases, the University provides copies of all lease documents and any attachments to such lease documents to the Department of General Services.

b. Notwithstanding the provisions of § 2.2-1155 and subdivision B 1 of § 23.1-1301, but subject to policies and procedures adopted by the board, the University may lease, for a purpose consistent with the mission of the Medical Center and for a term not to exceed 50 years, property in the possession or control of the Medical Center.

c. Notwithstanding the provisions of this subdivision, the terms and structure of any financing arrangements secured by capital leases or other similar lease financing agreements shall be approved pursuant to § 2.2-2416.

3. a. Contracts awarded by the University on behalf of the Medical Center for the procurement of goods, services, including professional services, construction, or information technology and telecommunications in compliance with this subdivision are exempt from (i) the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except as provided in this section; (ii) the requirements of the Division of Purchases and Supply of the Department of General Services as set forth in Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2; (iii) the requirements of the Division of Engineering and Buildings as set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2; and (iv) the authority of the Chief Information Officer and the Virginia Information Technologies Agency as set forth in Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 regarding the review and approval of contracts for (a) the construction of Medical Center capital projects and (b) information technology and telecommunications projects.

b. The University shall adopt and at all times maintain guidelines generally applicable to the procurement of goods, services, construction, and information technology and telecommunications projects by the Medical Center or by the University on behalf of the Medical Center. Such guidelines shall be based upon competitive principles and in each instance seek competition to the maximum practical degree. The guidelines shall (i) implement a system of competitive negotiation for professional services; (ii) prohibit discrimination against the bidder or offeror in the solicitation or award of contracts on the basis of the race, religion, color, sex, *sexual orientation*, *gender identity*, or national origin of the bidder or offeror; and (iii) incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354 and may (a) take into account the dollar amount of the intended procurement, the term of the anticipated contract, and the likely extent of competition; (b) implement a prequalification procedure for contractors or products; (c) include provisions for cooperative procurement arrangements with private health or educational institutions or public agencies or institutions of the states or territories of the United States or the District of Columbia; and (d) implement provisions of law.

c. Sections 2.2-4311, 2.2-4315, 2.2-4342 (which shall not be construed to require compliance with the prequalification application procedures of subsection B of § 2.2-4317), and 2.2-4330 and §§ 2.2-4333 through 2.2-4341 and 2.2-4367 through 2.2-4377 shall continue to apply to procurements by the Medical Center and the University on behalf of the Medical Center.

B. Subject to conditions that are prescribed in the budget bill pursuant to § 2.2-1509, the State Comptroller shall credit, on a monthly basis, to the nongeneral fund operating cash balances of the Medical Center the imputed interest earned by the investment of such nongeneral fund operating cash balances, including those balances derived from patient care revenues, on deposit with the State Treasurer.

§ 23.1-2312. Establishment of a branch campus in the State of Qatar.

A. In recognition that global educational opportunities benefit the intellectual and economic interests of the Commonwealth, the board may establish, operate, and govern a branch campus of the University in the State of Qatar. The board has the same powers with respect to operation and governance of its branch campus in Qatar as are vested in the board by law with respect to the University. In operating such branch campus, the board shall provide appropriate professional opportunities for Virginia-based faculty to teach or conduct research on the Qatar campus and educational opportunities for Virginia-based students to study or conduct research on the Qatar campus.

B. Nothing contained in this section shall be deemed a waiver of the sovereign immunity of the Commonwealth or the University.

C. In its operation of any branch campus established in the State of Qatar, the board and its employees shall not discriminate on the basis of race, color, religion, national origin, ~~or~~ sex, *sexual orientation*, or *gender identity* and shall not abridge the constitutional rights of freedom of speech and religion. Any agreement that the board enters to establish, operate, or govern the branch campus in Qatar shall contain contractual assurances to the board that the branch campus shall operate without discrimination on the basis of race, color, religion, national origin, ~~or~~ sex, *sexual orientation*, or *gender identity* and without abridging the constitutional rights of freedom of speech and religion.

§ 23.1-2405. Additional powers of the Authority; operation of projects.

A. The Authority may acquire, plan, design, construct, own, rent as landlord or tenant, operate, control, remove, renovate, enlarge, equip, and maintain, directly or through stock or nonstock corporations or other entities, any project as defined in this chapter. Such projects may be owned or

operated by the Authority or other parties or jointly by the Authority and other parties and may be operated within or outside the Commonwealth, so long as (i) their operations are necessary or desirable to assist the Authority in carrying out its public purposes within the Commonwealth and (ii) any private benefit resulting to any such other private parties from any such project is merely incidental to the public benefit of the project.

B. In the operation of hospitals and other health care and related facilities, the Authority may make and enforce all policies, procedures, and regulations necessary or desirable for such operation, including those relating to the conditions under which the privilege of practicing may be available in such facilities, the admission and treatment of patients, the procedures for determining the qualification of patients for indigent care or other programs, and the protection of patients and employees, provided that such policies, procedures, and regulations do not discriminate on the basis of race, religion, color, sex, *sexual orientation*, *gender identity*, or national origin.

§ 23.1-2415. Employees of the Authority.

A. Employees of the Authority shall be employed on such terms and conditions as established by the Authority. The board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions are based upon the merit and fitness of applicants, and prohibit discrimination on the basis of race, religion, color, sex, *sexual orientation*, *gender identity*, or national origin.

B. The Authority shall issue a written notice to all individuals whose employment is transferred to the Authority. The date upon which such written notice is issued is referred to in this section as the "Option Date." Each individual whose employment is transferred to the Authority may, by written request made within 180 days of the Option Date, elect not to become employed by the Authority. Any employee of MCV Hospitals who (i) elects not to become employed by the Authority; (ii) is not reemployed by any department, institution, board, commission, or agency of the Commonwealth; (iii) is not offered alternative employment by the Authority; (iv) is not offered a position with the Authority for which the employee is qualified; or (v) is offered a position by the Authority that requires relocation or a reduction in salary is eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority has voluntarily separated from state employment and is not eligible for the severance benefits conferred by the provisions of the Workforce Transition Act.

C. Without limiting its power generally with respect to employees, the Authority may employ any University employee utilized in the operation of the hospital facilities and assume obligations under any employment agreement for such employee, and the University may assign any such contract to the Authority.

D. The Authority and the University may enter into agreements providing for the purchase of services of University employees utilized in the operation of the hospital facilities by paying agreed-upon amounts to cover all or part of the salaries and other costs of such employees.

E. Notwithstanding any other provision of law to the contrary, any employee whose employment is transferred to the Authority as a result of this chapter and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 shall continue to be a member of such health insurance plan under the same terms and conditions of such plan.

F. Notwithstanding subsection A of § 2.2-2818, the costs of providing health insurance coverage to employees who elect to continue to be members of the state employees' health insurance plan shall be paid by the Authority.

G. Any employee of the Authority may elect to become a member of any health insurance plan established by the Authority. The Authority may (i) establish a health insurance plan for the benefit of its employees, residents, and interns and (ii) enter into an agreement with the Department of Human Resource Management providing for the coverage of its employees, interns, and residents under the state employees' health insurance plan, provided that such agreement requires the Authority to pay the costs of providing health insurance coverage under such plan.

H. Notwithstanding any other provision of law to the contrary, any employee whose employment is transferred to the Authority as a result of this chapter and who is a member of the Virginia Retirement System or another retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 shall continue to be a member of the Virginia Retirement System or such other authorized retirement plan under the same terms and conditions of such plan. Any such employee and any employee employed by the Authority between July 1, 1997, and June 30, 1998, who elected to be covered by the Virginia Retirement System may elect, during an open enrollment period from April 1, 2001, through April 30, 2001, to become a member of the retirement plan established by the Authority for the benefit of its employees pursuant to § 23.1-2416 by transferring assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. The Authority shall reimburse the Virginia Retirement System for the actual cost of actuarial services necessary to determine

the present value of the accrued basic benefit of employees who elect to transfer to the Authority's retirement plan. The following rules shall apply to such transfers:

1. With respect to any transferred employee who elects to remain a member of the Virginia Retirement System or another authorized retirement plan, the Authority shall collect and pay all employee and employer contributions to the Virginia Retirement System or such other authorized retirement plan for retirement in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for such transferred employees.

2. Transferred employees who elect to become members of the retirement plan established by the Authority for the benefit of its employees shall be given full credit for their creditable service as defined in § 51.1-124.3, vesting and benefit accrual under the retirement plan established by the Authority. For any such employee, employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1.

3. For transferred employees who elect to become members of the retirement plan established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the retirement plan established by the Authority assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. For the purposes of such calculation, the basic benefit is the benefit accrued under the Virginia Retirement System or another authorized retirement plan based on creditable service and average final compensation as defined in § 51.1-124.3 and determined as of the transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or such other authorized retirement plan so that the transfer of assets to the retirement plan established by the Authority has no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan.

§ 23.1-3011. Discrimination prohibited.

In hiring practices and in the procurement of goods and services, the Medical School shall not discriminate against any person on the basis of race, color, religion, national origin, sex, *sexual orientation*, *gender identity*, pregnancy, childbirth or related medical conditions, age, marital status, or disability.

§ 23.1-3138. Procurement and information technology.

A. The Authority shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except for § 2.2-4342, which shall not be construed to require compliance with the prequalification application procedures of subsection B of § 2.2-4317, if it adopts and complies with policies for the procurement of goods and services, including professional services, that (i) are based upon competitive principles; (ii) in each instance seek competition to the maximum practical degree; (iii) implement a system of competitive negotiation for professional services pursuant to §§ 2.2-4303.1 and 2.2-4302.2; (iv) prohibit discrimination in the solicitation and award of contracts based on the bidder's or offeror's race, religion, color, sex, *sexual orientation*, *gender identity*, national origin, age, or disability or on any other basis prohibited by state or federal law; (v) incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354; (vi) consider the impact on correctional enterprises under § 53.1-47; (vii) provide that whenever solicitations are made seeking competitive procurement of goods or services, it shall be a priority of the Authority to provide for fair and reasonable consideration of small, women-owned, and minority-owned businesses and to promote and encourage a diversity of suppliers; and (viii) identify the public, educational, and operational interests served by any procurement rule that deviates from procurement rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

B. The Authority shall be exempt from the provisions governing the Virginia Information Technologies Agency in Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 and the provisions governing the Information Technology Advisory Council in Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2, if it adopts and complies with policies and professional best practices regarding strategic planning for information technology, project management, security, budgeting, infrastructure, and ongoing operations.

§ 36-55.26. Definitions.

As used in this chapter the following words and terms have the following meanings, unless a different meaning clearly appears from the context *requires a different meaning*:

"Bonds," "notes," "bond anticipation notes," and "other obligations" mean any bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness issued by HDA pursuant to this chapter.

"City" means any city or town in the Commonwealth.

"County" means any county in the Commonwealth.

"Earned surplus" shall have the same meaning as in generally accepted accounting standards.

"Economically mixed project" means residential housing or housing development, which may consist

1155 of one or more buildings located on contiguous or noncontiguous parcels that the HDA determines to
 1156 finance as a single economically mixed project, to be occupied by persons and families of low and
 1157 moderate income and by other persons and families as the HDA shall determine.

1158 "Federal government" means the United States of America or any agency or instrumentality,
 1159 corporate or otherwise, of the United States of America.

1160 "Federal mortgage" means a mortgage loan for land development for residential housing or
 1161 residential housing made by the United States or an instrumentality thereof or for which there is a
 1162 commitment by the United States of America or an instrumentality thereof to make such a mortgage
 1163 loan.

1164 "Federally insured mortgage" means a mortgage loan for land development for residential housing or
 1165 residential housing insured or guaranteed by the United States or an instrumentality thereof, or a
 1166 commitment by the United States or an instrumentality thereof to insure such a mortgage.

1167 "HDA" means the Virginia Housing Development Authority created and established pursuant to
 1168 § 36-55.27 of this chapter.

1169 "Housing development costs" means the sum total of all costs incurred in the development of a
 1170 housing development, which are approved by the HDA as reasonable and necessary, which costs shall
 1171 include, but are not necessarily limited to: fair value of land owned by the sponsor, or cost of land
 1172 acquisition and any buildings thereon, including payments for options, deposits, or contracts to purchase
 1173 properties on the proposed housing site or payments for the purchase of such properties; cost of site
 1174 preparation, demolition and development; architecture, engineering, legal, accounting, HDA, and other
 1175 fees paid or payable in connection with the planning, execution and financing of the housing
 1176 development; cost of necessary studies, surveys, plans and permits; insurance, interest; financing, tax and
 1177 assessment costs and other operating and carrying costs during construction; cost of construction,
 1178 rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery and apparatus related to the
 1179 real property; cost of land improvements, including without limitation, landscaping and off-site
 1180 improvements, whether or not such costs have been paid in cash or in a form other than cash; necessary
 1181 expenses in connection with initial occupancy of the housing development; a reasonable profit and risk
 1182 fee in addition to job overhead to the general contractor and, if applicable, a limited profit housing
 1183 sponsor; an allowance established by HDA for working capital and contingency reserves, and reserves
 1184 for any anticipated operating deficits during the first two years of occupancy; in the case of an
 1185 economically mixed project within a revitalization area designated in or pursuant to § 36-55.30:2, the
 1186 costs of any nonhousing buildings that are financed in conjunction with such project and that are
 1187 incidental to such project or are determined by such governing body to be necessary or appropriate for
 1188 the revitalization of such area or for the industrial, commercial or other economic development of such
 1189 area; the cost of such other items, including tenant relocation, if such tenant relocation costs are not
 1190 otherwise being provided for, as HDA shall determine to be reasonable and necessary for the
 1191 development of the housing development, less any and all net rents and other net revenues received
 1192 from the operation of the real and personal property on the development site during construction.

1193 "Housing development" or "housing project" means any work or undertaking, whether new
 1194 construction or rehabilitation, which is designed and financed pursuant to the provisions of this chapter
 1195 for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for persons
 1196 and families of low or moderate income in need of housing and, in the case of an economically mixed
 1197 project, other persons and families; such undertaking may include any buildings, land, equipment,
 1198 facilities, or other real or personal properties which are necessary, convenient, or desirable
 1199 appurtenances, such as but not limited to streets, sewers, utilities, parks, site preparation, landscaping,
 1200 and such offices, and other nonhousing facilities incidental or related to such development or project
 1201 such as administrative, community, health, nursing care, medical, educational and recreational facilities
 1202 as HDA determines to be necessary, convenient, or desirable. For the purposes of this chapter, medical
 1203 and related facilities for the residence and care of the aged shall be deemed to be dwelling
 1204 accommodations.

1205 "Housing lender" means any bank or trust company, mortgage banker approved by the Federal
 1206 National Mortgage Association, savings bank, national banking association, savings and loan association
 1207 or building and loan association, mortgage broker, mortgage company, mortgage lender, life insurance
 1208 company, credit union, agency or authority of the Commonwealth or any other state, or locality
 1209 authorized to finance housing loans on properties located in or outside of the Commonwealth to persons
 1210 and families of any income.

1211 "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, public bodies,
 1212 trusts, firms, associations, or other legal entities or any combination thereof, corporations, cooperatives
 1213 and condominiums, approved by HDA as qualified either to own, construct, acquire, rehabilitate,
 1214 operate, manage or maintain a housing development whether nonprofit or organized for limited profit
 1215 subject to the regulatory powers of HDA and other terms and conditions set forth in this chapter.

"Land development" means the process of acquiring land for residential housing construction, and of making, installing, or constructing nonresidential housing improvements, including, without limitation, waterlines and water supply installations, sewer lines and sewage disposal and treatment installations, steam, gas and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, other related pollution control facilities, and other installations or works, whether on or off the site, which HDA deems necessary or desirable to prepare such land primarily for residential housing construction within the Commonwealth.

"Loan servicer" means any person who, on behalf of a housing lender, collects or receives payments, including payments of principal, interest, escrow amounts, and other amounts due, on obligations due and owing to the housing lender pursuant to a residential mortgage loan or who, when the borrower is in default or in foreseeable likelihood of default, works on behalf of the housing lender with the borrower to modify or refinance, either temporarily or permanently, the obligations in order to avoid foreclosure or otherwise to finalize collection through the foreclosure process.

"Mortgage" means a mortgage deed, deed of trust, or other security instrument which shall constitute a lien in the Commonwealth on improvements and real property in fee simple, on a leasehold under a lease having a remaining term, which at the time such mortgage is acquired does not expire for at least that number of years beyond the maturity date of the interest-bearing obligation secured by such mortgage as is equal to the number of years remaining until the maturity date of such obligation or on personal property, contract rights or other assets.

"Mortgage lender" means any bank or trust company, mortgage banker approved by the Federal National Mortgage Association, savings bank, national banking association, savings and loan association, or building and loan association, life insurance company, the federal government or other financial institutions or government agencies which are authorized to and customarily provide service or otherwise aid in the financing of mortgages on residential housing located in the Commonwealth for persons and families of low or moderate income.

"Mortgage loan" means an interest-bearing obligation secured by a mortgage.

"Multifamily residential housing" means residential housing other than single-family residential housing, as hereinafter defined.

"Municipality" means any city, town, county, or other political subdivision of the Commonwealth.

"Nonhousing building" means a building or portion thereof and any related improvements and facilities used or to be used for manufacturing, industrial, commercial, governmental, educational, entertainment, community development, health care, or nonprofit enterprises or undertakings other than residential housing.

"Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin or sex, *sexual orientation*, or *gender identity*, determined by the HDA to require such assistance as is made available by this chapter on account of insufficient personal or family income taking into consideration, without limitation, such factors as follows: (i) the amount of the total income of such persons and families available for housing needs, (ii) the size of the family, (iii) the cost and condition of housing facilities available, (iv) the ability of such persons and families to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing, and (v) if appropriate, standards established for various federal programs determining eligibility based on income of such persons and families.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

"Residential housing" means a specific work or improvement within the Commonwealth, whether multifamily residential housing or single-family residential housing undertaken primarily to provide dwelling accommodations, including the acquisition, construction, rehabilitation, preservation or improvement of land, buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental, related, or appurtenant thereto. For the purposes of this chapter, medical and related facilities for the residence and care of the aged shall be deemed to be dwelling accommodations.

"Single-family residential housing" means residential housing consisting of four or fewer dwelling units, the person or family owning or intending to acquire such dwelling units, upon completion of the construction, rehabilitation, or improvement thereof, also occupying or intending to occupy one of such dwelling units.

§ 36-96.1. Declaration of policy.

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

B. It is the policy of the Commonwealth of Virginia to provide for fair housing throughout the Commonwealth, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness,

familial status, *sexual orientation*, *gender identity*, or handicap, and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the Commonwealth may be protected and insured. This law shall be deemed an exercise of the police power of the Commonwealth of Virginia for the protection of the people of the Commonwealth.

§ 36-96.1:1. Definitions.

For the purposes of this chapter, unless the context clearly indicates otherwise:

"Aggrieved person" means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.

"Complainant" means a person, including the Fair Housing Board, who files a complaint under § 36-96.9.

"Conciliation" means the attempted resolution of issues raised by a complainant, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, their respective authorized representatives, and the Fair Housing Board.

"Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

"Discriminatory housing practices" means an act that is unlawful under § 36-96.3, 36-96.4, 36-96.5, or 36-96.6.

"Dwelling" means any building, structure, or portion thereof, that is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

"Elderliness" means an individual who has attained his fifty-fifth birthday.

"Familial status" means one or more individuals who have not attained the age of 18 years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. For purposes of this section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

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

"Handicap" means, with respect to a person, (i) a physical or mental impairment that substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of or addiction to a controlled substance as defined in Virginia or federal law. For the purposes of this chapter, the terms "handicap" and "disability" shall be interchangeable.

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

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

"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.

"Physical or mental impairment" means, but shall not be limited to, any of the following: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii) any mental or psychological disorder, such as an intellectual or developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart

disease; diabetes; human immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.

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

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

"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.

§ 36-96.2. Exemptions.

A. Except as provided in subdivision A 3 of § 36-96.3 and subsections A, B, and C of § 36-96.6, this chapter 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 24-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 chapter only if the house is sold or rented (i) without 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) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this chapter. 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 or regulant of the Fair Housing Board, regardless of whether the licensee is acting in his personal or professional capacity.

B. Except for subdivision A 3 of § 36-96.3, this chapter 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 chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion; or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, elderliness, familial status, *sexual orientation*, *gender identity*, or handicap. Nor shall anything in this chapter apply to a private membership club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging ~~which~~ *that* it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. Nor, where matters of personal privacy are involved, shall anything in this chapter be construed to prohibit any private, state-owned, or state-supported educational institution, hospital, nursing home, *or* religious or correctional institution; from requiring that persons of both sexes not occupy any single-family residence or room or unit of dwellings or other buildings, or restrooms in such room or unit in dwellings or other buildings, which it owns or operates.

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

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

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

would constitute a clear and present threat to the health or safety of other individuals.

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

§ 36-96.3. Unlawful discriminatory housing practices.

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

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

2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in the connection therewith to any person, because of race, color, religion, national origin, sex, elderliness, ~~or~~ familial status, *sexual orientation, or gender identity*;

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

4. To represent to any person because of race, color, religion, national origin, sex, elderliness, familial status, *sexual orientation, gender identity*, or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

5. To deny any person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership, or participation, because of race, color, religion, national origin, sex, elderliness, familial status, *sexual orientation, gender identity*, or handicap;

6. To include in any transfer, sale, rental, or lease of housing, any restrictive covenant that discriminates because of race, color, religion, national origin, sex, elderliness, familial status, *sexual orientation, gender identity*, or handicap or for any person to honor or exercise, or attempt to honor or exercise, any such discriminatory covenant pertaining to housing;

7. To induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, elderliness, familial status, *sexual orientation, gender identity*, or handicap;

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

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

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

2. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped 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 handicapped people shall be deemed to satisfy the requirements of subdivision B 3.

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

§ 36-96.4. Discrimination in residential real estate-related transactions; unlawful practices by lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.

A. It shall be is unlawful for any person or other entity, including any lending institution, whose business includes engaging in residential real estate-related transactions, to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, or in the manner of providing such a transaction, because of race, color, religion, national origin, sex, elderliness, familial status, *sexual orientation, gender identity*, or handicap. It shall is 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 chapter shall prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, elderliness, familial status, *sexual orientation, gender identity*, or handicap.

C. It shall be unlawful for any state, county, city, or municipal treasurer or governmental official whose responsibility it is to account for, to invest, or manage public funds to deposit or cause to be deposited any public funds in any lending institution provided for herein which is found to be committing discriminatory practices, where such findings were upheld by any court of competent jurisdiction. Upon such a court's judicial enforcement of any order to restrain a practice of such lending institution or for said institution to cease or desist in a discriminatory practice, the appropriate fiscal officer or treasurer of the Commonwealth or any political subdivision thereof which has funds deposited in any lending institution which is practicing discrimination, as set forth herein, shall take immediate steps to have the said funds withdrawn and redeposited in another lending institution. If for reasons of sound economic management, this action will result in a financial loss to the Commonwealth or any of its political subdivisions, the action may be deferred for a period not longer than one year. If the lending institution in question has corrected its discriminatory practices, any prohibition set forth in this section shall not apply.

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

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

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

C. No person shall solicit or accept compensation of any kind for the release or removal of any covenant or reversionary interest described in subsection A. Any person violating this subsection shall be liable to any person injured thereby in an amount equal to the greater of three times the compensation

solicited or received, or \$500, plus reasonable attorneys' attorney fees and costs incurred.

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

§ 37.2-707. Employment and qualifications of directors of state facilities.

The Commissioner shall employ a director for each state facility who shall be skilled in facility management and administration and who shall meet requirements that may be determined by the Commissioner. However, the director need not be a physician.

Any director of a state facility employed or reemployed by the Commissioner after July 1, 2002, may be employed as a classified employee or under a contract that specifies the terms and conditions of employment, including compensation, benefits, duties and responsibilities, performance standards, evaluation criteria, and contract termination and renewal provisions. The length of employment contracts shall be two years, with provisions for annual renewals thereafter based on the performance of the incumbent. Any director of a state facility employed by the Commissioner before July 1, 1999, may elect to continue his current employment status subject to the provisions of the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, or he may choose to be employed under a contract. Any director of a state facility employed under an employment contract shall be exempt from the Virginia Personnel Act, yet he shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.). Personnel actions under this exemption shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, disability, or political affiliation.

Each director shall be responsible to the Commissioner or his designee for the safe, efficient, and effective operation of his state facility. Each director shall take any actions consistent with law necessary to ensure that his facility complies with all applicable federal and state statutes, regulations, policies, and agreements. The Commissioner shall evaluate the performance of each director of a state facility at least annually.

Whenever any act required by law to be performed by a director employed hereunder constitutes the practice of medicine, as defined in § 54.1-2900, and the director is not a licensed physician, the act shall be performed by a licensed physician designated by the director.

§ 38.2-508.2. Discrimination prohibited.

No person shall refuse to issue or refuse to continue a life insurance policy on the life of any individual solely because of that individual's race, color, sexual orientation, gender identity, religion, national origin, or gender sex.

§ 38.2-2114. Grounds and procedure for termination of policy; contents of notice; review by Commissioner; exceptions; immunity from liability.

A. Notwithstanding the provisions of § 38.2-2105, no policy or contract written to insure owner-occupied dwellings shall be canceled by an insurer unless written notice is mailed or delivered to the named insured at the address stated in the policy, or is delivered electronically to the address provided by the named insured, and cancellation is for one of the following reasons:

1. Failure to pay the premium when due;
2. Conviction of a crime arising out of acts increasing the probability that a peril insured against will occur;
3. Discovery of fraud or material misrepresentation;
4. Willful or reckless acts or omissions increasing the probability that a peril insured against will occur as determined from a physical inspection of the insured premises;
5. Physical changes in the property which result in the property becoming uninsurable as determined from a physical inspection of the insured premises; or
6. Foreclosure efforts by the secured party against the subject property covered by the policy that have resulted in the sale of the property by a trustee under a deed of trust as duly recorded in the land title records of the jurisdiction in which the property is located.

B. No policy or contract written to insure owner-occupied dwellings shall be terminated by an insurer by refusal to renew except at the expiration of the stated policy period or term and unless the insurer or its agent acting on behalf of the insurer mails or delivers to the named insured, at the address stated in the policy, or delivers electronically to the address provided by the named insured, written notice of the insurer's refusal to renew the policy or contract.

C. A written notice of cancellation of or refusal to renew a policy or contract written to insure owner-occupied dwellings shall:

1. State the date that the insurer proposes to terminate the policy or contract, which shall be at least 30 days after mailing or delivering to the named insured the notice of cancellation or refusal to renew.

However, when the policy is being terminated for the reason set forth in subdivision A 1 of subsection

A of this section, the date that the insurer proposes to terminate the policy may be less than 30 days but at least 10 days from the date of mailing or delivery;

2. State the specific reason for terminating the policy or contract and provide for the notification required by the provisions of §§ 38.2-608 and 38.2-609 and subsection B of § 38.2-610. However, those notification requirements shall not apply when the policy is being canceled or not renewed for the reason set forth in subdivision A 1 of subsection A of this section;

3. Advise the insured that within 10 days of receipt of the notice of termination he may request in writing that the Commissioner review the action of the insurer in terminating the policy or contract;

4. Advise the insured of his possible eligibility for fire insurance coverage through the Virginia Property Insurance Association; and

5. Be in a type size authorized by § 38.2-311.

D. Within 10 days of receipt of the notice of termination any insured or his attorney shall be entitled to request in writing to the Commissioner that he review the action of the insurer in terminating a policy or contract written to insure owner-occupied dwellings. Upon receipt of the request, the Commissioner shall promptly initiate a review to determine whether the insurer's cancellation or refusal to renew complies with the requirements of this section and of § 38.2-2113, if sent by mail or delivered electronically. The policy shall remain in full force and effect during the pendency of the review by the Commissioner except where the cancellation or refusal to renew is for reason of nonpayment of premium, in which case the policy shall terminate as of the date stated in the notice. Where the Commissioner finds from the review that the cancellation or refusal to renew has not complied with the requirements of this section or of § 38.2-2113, if sent by mail or delivered electronically, he shall immediately notify the insurer, the insured, and any other person to whom notice of cancellation or refusal to renew was required to be given by the terms of the policy that the cancellation or refusal to renew is not effective. Nothing in this section authorizes the Commissioner to substitute his judgment as to underwriting for that of the insurer.

E. Nothing in this section shall apply:

1. To any policy written to insure owner-occupied dwellings that has been in effect for less than 90 days when the notice of termination is mailed or delivered to the insured, unless it is a renewal policy;

2. If the insurer or its agent acting on behalf of the insurer has manifested its willingness to renew by issuing or offering to issue a renewal policy, certificate or other evidence of renewal, or has otherwise manifested its willingness to renew in writing to the insured. The written manifestation shall include the name of a proposed insurer, the expiration date of the policy, the type of insurance coverage, and information regarding the estimated renewal premium;

3. If the named insured or his duly constituted attorney-in-fact has notified the insurer or its agent orally, or in writing, if the insurer requires such notification to be in writing, that he wishes the policy to be canceled, or that he does not wish the policy to be renewed, or if, prior to the date of expiration, he fails to accept the offer of the insurer to renew the policy;

4. To any contract or policy written through the Virginia Property Insurance Association or any residual market facility established pursuant to Chapter 27 (§ 38.2-2700 et seq.) of this title; or

5. If an affiliated insurer has manifested its willingness to provide coverage at a lower premium than would have been charged for the same exposures on the expiring policy. The affiliated insurer shall manifest its willingness to provide coverage by issuing a policy with the types and limits of coverage at least equal to those contained in the expiring policy unless the named insured has requested a change in coverage or limits. When such offer is made by an affiliated insurer, an offer of renewal shall not be required of the insurer of the expiring policy, and the policy issued by the affiliated insurer shall be deemed to be a renewal policy.

F. Each insurer shall maintain, for at least one year, records of cancellation and refusal to renew and copies of every notice or statement referred to in subsection E of this section that it sends to any of its insureds.

G. There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner or his subordinates; any insurer, its authorized representative, its agents, or its employees; or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or refusal to renew, for any statement made by any of them in complying with this section or for providing information pertaining to the cancellation or refusal to renew.

H. Nothing in this section requires an insurer to renew a policy written to insure owner-occupied dwellings, if the insured does not conform to the occupational or membership requirements of an insurer who limits its writings to an occupation or membership of an organization.

I. No insurer or agent shall refuse to renew a policy written to insure an owner-occupied dwelling, solely because of any one or more of the following factors:

1. Age;

2. Sex;

- 3. Residence;
- 4. Race;
- 5. Color;
- 6. Creed;
- 7. National origin;
- 8. Ancestry;
- 9. Marital status;
- 10. *Sexual orientation*;
- 11. *Gender identity*;

12. Lawful occupation, including the military service; however, nothing in this subsection shall require any insurer to renew a policy for an insured where the insured's occupation has changed so as to increase materially the risk;

~~13.~~ 13. Credit information contained in a "consumer report," as defined in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., bearing on a natural person's creditworthiness, credit standing or credit capacity. If credit information is used, in part, as the basis for the nonrenewal, such credit information shall be based on a consumer report procured within 120 days from the effective date of the nonrenewal;

~~14.~~ 14. Any claim resulting primarily from natural causes;

~~15.~~ 15. One or more claims that were incurred more than 60 months immediately prior to the expiration of the current policy period; or

~~16.~~ 16. Any inquiry from an insured about his insurance coverage or policy provisions. For purposes of this subdivision, "inquiry" means a written or oral communication by an insured seeking information regarding coverage or policy provisions that does not notify the insurer of a loss, incident or accident, and that does not provide information indicating an increase in the hazard insured against. An insurer shall not report any inquiry as a claim to a loss history database maintained by a consumer reporting agency or insurance support organization.

Nothing in this section prohibits any insurer from setting rates in accordance with relevant actuarial data.

J. No insurer shall cancel or refuse to renew a policy written to insure an owner-occupied dwelling because an insured under the policy is a foster parent and foster children reside at the insured dwelling.

§ 38.2-2115. Discrimination in issuance of fire insurance.

No insurer or agent shall refuse to issue a policy solely because of any one or more of the following factors: the age, sex, residence, race, color, creed, national origin, ancestry, marital status, *sexual orientation*, *gender identity*, or lawful occupation, including the military service, of the person seeking insurance. Nothing in this section prohibits any insurer from limiting the issuance of policies to those who are residents of this Commonwealth, nor does it prohibit any insurer from limiting the issuance of policies only to persons engaging in or who have engaged in a particular profession or occupation, or who are members of a particular religious sect. Nothing in this section prohibits any insurer from setting rates in accordance with relevant actuarial data.

§ 38.2-2212. Grounds and procedure for cancellation of or refusal to renew motor vehicle insurance policies; review by Commissioner.

A. The following definitions shall apply to this section:

"Cancellation" or "to cancel" means a termination of a policy during the policy period.

"Insurer" means any insurance company, association, or exchange licensed to transact motor vehicle insurance in this Commonwealth.

"Policy of motor vehicle insurance" or "policy" means a policy or contract for bodily injury or property damage liability insurance issued or delivered in this Commonwealth covering liability arising from the ownership, maintenance, or use of any motor vehicle, insuring as the named insured one individual or husband and wife who are residents of the same household, and under which the insured vehicle designated in the policy is either:

~~a.~~ 1. A motor vehicle of a private passenger, station wagon, or motorcycle type that is not used commercially, rented to others, or used as a public or livery conveyance where the term "public or livery conveyance" does not include car pools, or

~~b.~~ 2. Any other four-wheel motor vehicle which is not used in the occupation, profession, or business, other than farming, of the insured, or as a public or livery conveyance, or rented to others. The term "policy of motor vehicle insurance" or "policy" does not include (i) any policy issued through the Virginia Automobile Insurance Plan, (ii) any policy covering the operation of a garage, sales agency, repair shop, service station, or public parking place, (iii) any policy providing insurance only on an excess basis, or (iv) any other contract providing insurance to the named insured even though the contract may incidentally provide insurance on motor vehicles.

"Renewal" or "to renew" means (i) the issuance and delivery by an insurer of a policy superseding at

the end of the policy period a policy previously issued and delivered by the same insurer, providing types and limits of coverage at least equal to those contained in the policy being superseded, or (ii) the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy. Each renewal shall conform with the requirements of the manual rules and rating program currently filed by the insurer with the Commission. Except as provided in subsection K, any policy with a policy period or term of less than 12 months or any policy with no fixed expiration date shall for the purpose of this section be considered as if written for successive policy periods or terms of six months from the original effective date.

B. This section shall apply only to that portion of a policy of motor vehicle insurance providing the coverage required by §§ 38.2-2204, 38.2-2205, and 38.2-2206.

C. 1. No insurer shall refuse to renew a motor vehicle insurance policy solely because of any one or more of the following factors:

- a. Age;
- b. Sex;
- c. Residence;
- d. Race;
- e. Color;
- f. Creed;
- g. National origin;
- h. Ancestry;
- i. Marital status;
- j. *Sexual orientation*;
- k. *Gender identity*;
- l. Lawful occupation, including the military service;
- ~~k.~~ m. Lack of driving experience, or number of years driving experience;
- ~~l.~~ n. Lack of supporting business or lack of the potential for acquiring such business;
- ~~m.~~ o. One or more accidents or violations that occurred more than 48 months immediately preceding

the upcoming anniversary date;

~~n.~~ p. One or more claims submitted under the uninsured motorists coverage of the policy where the uninsured motorist is known or there is physical evidence of contact;

~~o.~~ q. A single claim by a single insured submitted under the medical expense coverage due to an accident for which the insured was neither wholly nor partially at fault;

~~p.~~ r. One or more claims submitted under the comprehensive or towing coverages. However, nothing in this section shall prohibit an insurer from modifying or refusing to renew the comprehensive or towing coverages at the time of renewal of the policy on the basis of one or more claims submitted by an insured under those coverages, provided that the insurer shall mail or deliver to the insured at the address shown in the policy, or deliver electronically to the address provided by the named insured, written notice of any such change in coverage at least 45 days prior to the renewal;

~~q.~~ s. Two or fewer motor vehicle accidents within a three-year period unless the accident was caused either wholly or partially by the named insured, a resident of the same household, or other customary operator;

~~r.~~ t. Credit information contained in a "consumer report," as defined in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., bearing on a natural person's creditworthiness, credit standing or credit capacity. If credit information is used, in part, as the basis for the nonrenewal, such credit information shall be based on a consumer report procured within 120 days from the effective date of the nonrenewal. The provisions of this subdivision shall apply only to insurance purchased primarily for personal, family, or household purposes;

~~s.~~ u. The refusal of a motor vehicle owner as defined in § 46.2-1088.6 to provide access to recorded data from a recording device as defined in § 46.2-1088.6; or

~~t.~~ v. The status of the person as a foster care provider or a person in foster care.

2. Nothing in this section shall require any insurer to renew a policy for an insured where the insured's occupation has changed so as to materially increase the risk. Nothing contained in subdivisions 1 ~~n~~ p, ~~o~~ q, and ~~p~~ r shall prohibit an insurer from refusing to renew a policy where a claim is false or fraudulent. Nothing in this section prohibits any insurer from setting rates in accordance with relevant actuarial data.

D. No insurer shall cancel a policy except for one or more of the following reasons:

1. The named insured or any other operator who either resides in the same household or customarily operates a motor vehicle insured under the policy has had his driver's license suspended or revoked during the policy period or, if the policy is a renewal, during its policy period or the 90 days immediately preceding the last effective date.

2. The named insured fails to pay the premium for the policy or any installment of the premium, whether payable to the insurer or its agent either directly or indirectly under any premium finance plan or extension of credit.

3. The named insured or his duly constituted attorney-in-fact has notified the insurer of a change in the insured's legal residence to a state other than Virginia and the insured vehicle will be principally garaged in the new state of legal residence.

E. No cancellation or refusal to renew by an insurer of a policy of motor vehicle insurance shall be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew, or the insurer delivers such notice electronically to the address provided by the named insured. The notice shall:

1. Be in a type size authorized under § 38.2-311.

2. State the effective date of the cancellation or refusal to renew. The effective date of cancellation or refusal to renew shall be at least 45 days after mailing or delivering to the insured the notice of cancellation or notice of refusal to renew. However, when the policy is being canceled or not renewed for the reason set forth in subdivision D 2 the effective date may be less than 45 days but at least 15 days from the date of mailing or delivery.

3. State the specific reason of the insurer for cancellation or refusal to renew and provide for the notification required by §§ 38.2-608, 38.2-609, and subsection B of § 38.2-610. However, those notification requirements shall not apply when the policy is being canceled or not renewed for the reason set forth in subdivision D 2.

4. Inform the insured of his right to request in writing within 15 days of the receipt of the notice that the Commissioner review the action of the insurer.

The notice of cancellation or refusal to renew shall contain the following statement to inform the insured of such right:

IMPORTANT NOTICE

Within 15 days of receiving this notice, you or your attorney may request in writing that the Commissioner of Insurance review this action to determine whether the insurer has complied with Virginia laws in canceling or nonrenewing your policy. If this insurer has failed to comply with the cancellation or nonrenewal laws, the Commissioner may require that your policy be reinstated. However, the Commissioner is prohibited from making underwriting judgments. If this insurer has complied with the cancellation or nonrenewal laws, the Commissioner does not have the authority to overturn this action.

5. Inform the insured of the possible availability of other insurance which may be obtained through his agent, through another insurer, or through the Virginia Automobile Insurance Plan.

6. If sent by mail or delivered electronically, comply with the provisions of § 38.2-2208.

Nothing in this subsection prohibits any insurer or agent from including in the notice of cancellation or refusal to renew, any additional disclosure statements required by state or federal laws, or any additional information relating to the availability of other insurance.

F. Nothing in this section shall apply:

1. If the insurer or its agent acting on behalf of the insurer has manifested its willingness to renew by issuing or offering to issue a renewal policy, certificate, or other evidence of renewal, or has manifested its willingness to renew in writing to the insured. The written manifestation shall include the name of a proposed insurer, the expiration date of the policy, the type of insurance coverage, and information regarding the estimated renewal premium. The insurer shall retain a copy of each written manifestation for a period of at least one year from the expiration date of any policy that is not renewed;

2. If the named insured, or his duly constituted attorney-in-fact, has notified the insurer or its agent orally, or in writing, if the insurer requires such notification to be in writing, that he wishes the policy to be canceled or that he does not wish the policy to be renewed, or if prior to the date of expiration he fails to accept the offer of the insurer to renew the policy;

3. To any motor vehicle insurance policy which has been in effect less than 60 days when the termination notice is mailed or delivered to the insured, unless it is a renewal policy; or

4. If an affiliated insurer has manifested its willingness to provide coverage at a lower premium than would have been charged for the same exposures on the expiring policy. The affiliated insurer shall manifest its willingness to provide coverage by issuing a policy with the types and limits of coverage at least equal to those contained in the expiring policy unless the named insured has requested a change in coverage or limits. When such offer is made by an affiliated insurer, an offer of renewal shall not be required of the insurer of the expiring policy, and the policy issued by the affiliated insurer shall be deemed to be a renewal policy.

G. There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner or his subordinates; any insurer, its authorized representatives, its agents, or its

employees; or any person furnishing to the insurer information as to reasons for cancellation or refusal to renew, for any statement made by any of them in complying with this section or for providing information pertaining to the cancellation or refusal to renew. For the purposes of this section, no insurer shall be required to furnish a notice of cancellation or refusal to renew to anyone other than the named insured, any person designated by the named insured, or any other person to whom such notice is required to be given by the terms of the policy and the Commissioner.

H. Within 15 days of receipt of the notice of cancellation or refusal to renew, any insured or his attorney shall be entitled to request in writing to the Commissioner that he review the action of the insurer in canceling or refusing to renew the policy of the insured. Upon receipt of the request, the Commissioner shall promptly begin a review to determine whether the insurer's cancellation or refusal to renew complies with the requirements of this section and of § 38.2-2208 if the notice was sent by mail or delivered electronically. The policy shall remain in full force and effect during the pendency of the review by the Commissioner except where the cancellation or refusal to renew is for the reason set forth in subdivision D 2, in which case the policy shall terminate as of the effective date stated in the notice. Where the Commissioner finds from the review that the cancellation or refusal to renew has not complied with the requirements of this section or of § 38.2-2208, he shall immediately notify the insurer, the insured and any other person to whom such notice was required to be given by the terms of the policy that the cancellation or refusal to renew is not effective. Nothing in this section authorizes the Commissioner to substitute his judgment as to underwriting for that of the insurer. Where the Commissioner finds in favor of the insured, the Commission in its discretion may award the insured reasonable attorneys' attorney fees.

I. Each insurer shall maintain for at least one year, records of cancellation and refusal to renew and copies of every notice or statement referred to in subsection E that it sends to any of its insureds.

J. The provisions of this section shall not apply to any insurer that limits the issuance of policies of motor vehicle liability insurance to one class or group of persons engaged in any one particular profession, trade, occupation, or business. Nothing in this section requires an insurer to renew a policy of motor vehicle insurance if the insured does not conform to the occupational or membership requirements of an insurer who limits its writings to an occupation or membership of an organization. No insurer is required to renew a policy if the insured becomes a nonresident of Virginia.

K. Notwithstanding any other provision of this section, a motor vehicle insurance policy with a policy period or term of five months or less may expire at its expiration date when the insurer has manifested in writing its willingness to renew the policy for at least 30 days and has mailed or delivered the written manifestation to the insured at least 15 days before the expiration date of the policy. The written manifestation shall include the name of the proposed insurer, the expiration date of the policy, the type of insurance coverage, and the estimated renewal premium. The insurer shall retain a copy of the written manifestation for at least one year from the expiration date of any policy that is not renewed.

§ 38.2-2213. Discrimination in issuance of motor vehicle insurance.

No insurer or agent shall refuse to issue a motor vehicle insurance policy as defined in § 38.2-2212 solely because of any one or more of the following factors: the age, sex, residence, race, color, creed, national origin, ancestry, marital status, *sexual orientation*, *gender identity*, status of a person as a foster care provider or a person in foster care, or lawful occupation, including the military service, of the person seeking the coverage. Nothing in this section prohibits any insurer from limiting the issuance of motor vehicle insurance policies to those who are residents of this Commonwealth nor does this section prohibit any insurer from limiting the issuance of motor vehicle insurance policies only to persons engaging in or who have engaged in a particular profession or occupation, or who are members of a particular religious sect. Nothing in this section prohibits any insurer from setting rates in accordance with relevant actuarial data.

§ 38.2-3407.10. Health care provider panels.

A. As used in this section:

"Carrier" means:

1. Any insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis;
2. Any corporation providing individual or group accident and sickness subscription contracts;
3. Any health maintenance organization providing health care plans for health care services;
4. Any corporation offering prepaid dental or optometric services plans; or
5. Any other person or organization that provides health benefit plans subject to state regulation, and includes an entity that arranges a provider panel for compensation.

"Enrollee" means any person entitled to health care services from a carrier.

"Provider" means a hospital, physician or any type of provider licensed, certified or authorized by statute to provide a covered service under the health benefit plan.

"Provider panel" means those providers with which a carrier contracts to provide health care services

to the carrier's enrollees under the carrier's health benefit plan. However, such term does not include an arrangement between a carrier and providers in which any provider may participate solely on the basis of the provider's contracting with the carrier to provide services at a discounted fee-for-service rate.

B. Any such carrier that offers a provider panel shall establish and use it in accordance with the following requirements:

1. Notice of the development of a provider panel in the Commonwealth or local service area shall be filed with the Department of Health Professions.

2. Carriers shall provide a provider application and the relevant terms and conditions to a provider upon request.

C. A carrier that uses a provider panel shall establish procedures for:

1. Notifying an enrollee of:

a. The termination from the carrier's provider panel of the enrollee's primary care provider who was furnishing health care services to the enrollee; and

b. The right of an enrollee upon request to continue to receive health care services for a period of up to 90 days from the date of the primary care provider's notice of termination from a carrier's provider panel, except when a provider is terminated for cause.

2. Notifying a provider at least 90 days prior to the date of the termination of the provider, except when a provider is terminated for cause.

3. Providing reasonable notice to primary care providers in the carrier's provider panel of the termination of a specialty referral services provider.

4. Notifying the purchaser of the health benefit plan, whether such purchaser is an individual or an employer providing a health benefit plan, in whole or in part, to its employees and enrollees of the health benefit plan of:

a. A description of all types of payment arrangements that the carrier uses to compensate providers for health care services rendered to enrollees, including, but not limited to, withholds, bonus payments, capitation and fee-for-service discounts; and

b. The terms of the plan in clear and understandable language that reasonably informs the purchaser of the practical application of such terms in the operation of the plan.

D. Whenever a provider voluntarily terminates his contract with a carrier to provide health care services to the carrier's enrollees under a health benefit plan, he shall furnish reasonable notice of such termination to his patients who are enrollees under such plan.

E. A carrier may not deny an application for participation or terminate participation on its provider panel on the basis of gender, race, age, *sexual orientation*, *gender identity*, religion or national origin.

F. 1. For a period of at least 90 days from the date of the notice of a provider's termination from the carrier's provider panel, except when a provider is terminated for cause, the provider shall be permitted by the carrier to render health care services to any of the carrier's enrollees who:

a. Were in an active course of treatment from the provider prior to the notice of termination; and

b. Request to continue receiving health care services from the provider.

2. Notwithstanding the provisions of subdivision 1, any provider shall be permitted by the carrier to continue rendering health services to any enrollee who has entered the second trimester of pregnancy at the time of a provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the enrollee's option, continue through the provision of postpartum care directly related to the delivery.

3. Notwithstanding the provisions of subdivision 1, any provider shall be permitted by the carrier to continue rendering health services to any enrollee who is determined to be terminally ill (as defined under § 1861 (dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the enrollee's option, continue for the remainder of the enrollee's life for care directly related to the treatment of the terminal illness.

4. A carrier shall reimburse a provider under this subsection in accordance with the carrier's agreement with such provider existing immediately before the provider's termination of participation.

G. 1. A carrier shall provide to a purchaser upon enrollment and make available to existing enrollees at least once a year a list of members in its provider panel, which list shall also indicate those providers who are not currently accepting new patients. Such list may be made available in a form other than a printed document, provided the purchaser or existing enrollee is given the means to request and receive a printed copy of such list.

2. The information provided under subdivision 1 shall be updated at least once a year if in paper form, and monthly if in electronic form.

H. No contract between a carrier and a provider may require that the provider indemnify the carrier for the carrier's negligence, willful misconduct, or breach of contract, if any.

I. No contract between a carrier and a provider shall require a provider, as a condition of

participation on the panel, to waive any right to seek legal redress against the carrier.

J. No contract between a carrier and a provider shall prohibit, impede or interfere in the discussion of medical treatment options between a patient and a provider.

K. A contract between a carrier and a provider shall permit and require the provider to discuss medical treatment options with the patient.

L. Any carrier requiring preauthorization for medical treatment shall have personnel available to provide such preauthorization at all times when such preauthorization is required.

M. Carriers shall provide to their group policyholders written notice of any benefit reductions during the contract period at least 60 days before such benefit reductions become effective. Group policyholders shall, in turn, provide to their enrollees written notice of any benefit reductions during the contract period at least 30 days before such benefit reductions become effective. Such notice shall be provided to the group policyholder as a separate and distinct notification, and may not be combined with any other notification or marketing materials.

N. No contract between a provider and a carrier shall include provisions that require a health care provider or health care provider group to deny covered services that such provider or group knows to be medically necessary and appropriate that are provided with respect to a specific enrollee or group of enrollees with similar medical conditions.

O. If a provider panel contract between a provider and a carrier, or other entity that provides hospital, physician or other health care services to a carrier, includes provisions that require a provider, as a condition of participating in one of the carrier's or other entity's provider panels, to participate in any other provider panel owned or operated by that carrier or other entity, the contract shall contain a provision permitting the provider to refuse participation in one or more such other provider panels at the time the contract is executed. If a provider contracts with a carrier or other entity that subsequently contracts with one or more unaffiliated carriers to include such provider in the provider panels of such unaffiliated carriers, and which permits an unaffiliated carrier to impose participation terms with respect to such provider that differ materially in reimbursement rates or in managed care procedures, such as conducting economic profiling or requiring a patient to obtain primary care physician referral to a specialist, from the terms agreed to by the provider in the original contract, the provider panel contract shall contain a provision permitting the provider to refuse participation with any such unaffiliated carrier. Utilization review pursuant to Article 1.2 (§ 32.1-137.7 et seq.) of Chapter 5 of Title 32.1 shall not constitute a materially different managed care procedure. This subsection shall apply to provider panels utilized by health maintenance organizations and preferred provider organizations. For purposes of this subsection, "preferred provider organization" means a carrier that offers preferred provider contracts or policies as defined in § 38.2-3407 or preferred provider subscription contracts as defined in § 38.2-4209. The status of a physician as a member of or as being eligible for other existing or new provider panels shall not be adversely affected by the exercise of such right to refuse participation. This subsection shall not apply to the Medallion II and children's health insurance plan administered by or pursuant to contract with the Department of Medical Assistance Services.

P. A carrier that rents or leases its provider panel to unaffiliated carriers shall make available, upon request, to its providers a list of unaffiliated carriers that rent or lease its provider panel. Such list if available in electronic format shall be updated monthly. The provider shall be given the means to request and receive a printed copy of such list.

Q. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

R. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended on or after July 1, 1996. However, the 90-day period referred to in subdivisions C 1 b and C 2 of this section, the requirements set forth in subdivisions F 2 and F 3, and the requirements set forth in subsections L, M, and N shall apply to contracts between carriers and providers that are entered into or renewed on or after July 1, 1999, the requirements set forth in subsection O shall apply to contracts between carriers and providers that are entered into, reissued, extended or renewed on or after July 1, 2001, and the requirements set forth in subsection P shall be effective on and after January 1, 2007.

§ 40.1-121. Requisites of apprentice agreement.

Every apprentice agreement entered into under this chapter shall contain:

1. The names, signatures, and addresses of the contracting parties;
2. The date of birth of the apprentice;
3. The contact information of the Program Sponsor and the Division of Registered Apprenticeship;
4. A statement of the occupation or business that the apprentice is to be taught and the time at which the apprenticeship will begin and end;
5. A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related or supplemental instruction;
6. A statement setting forth a schedule of the processes in the occupation or industry division in

which the apprentice is to be taught and the approximate time to be spent at each process;

7. A statement of the graduated scale of wages to be paid the apprentice and whether the required related instruction shall be compensated;

8. A statement providing for a period of probation of not less than 500 hours of employment and instruction extending over not less than four months, during which time the apprentice agreement shall be terminated by the Commissioner at the request in writing of either party, and providing that after such probationary period the apprentice agreement may be terminated by the Commissioner by mutual agreement of all parties thereto, or cancelled by the Commissioner for good and sufficient reason;

9. A reference incorporating as part of the agreement the standards of the apprenticeship program as they exist on the date of the agreement and as they may be amended during the period of the agreement;

10. A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training without discrimination on the basis of race, color, religion, national origin, ~~or sex, sexual orientation, or gender identity~~;

11. Contact information, including name, address, phone number, and email if appropriate, of the appropriate authority designated under the program to receive, process, and make disposition of controversies or differences arising out of the apprenticeship agreement when the controversies or differences cannot be adjusted locally or resolved in accordance with the established procedure or applicable collective bargaining provisions;

12. A provision that an employer who is unable to fulfill his obligation under the apprentice agreement may, with the approval of the Commissioner, transfer such contract to any other employer if (i) the apprentice consents, (ii) such other employer agrees to assume the obligations of the apprentice agreement, and (iii) the transfer is reported to the registration agency within 30 days of the transfer; and

13. Such additional terms and conditions as may be prescribed or approved by the Commissioner not inconsistent with the provisions of this chapter.

§ 46.2-1503.2. State Personnel and Public Procurement Acts not applicable.

A. The Executive Director and all staff employed by the Board shall be exempt from the Virginia Personnel Act (§ 2.2-2900 et seq.) of Title 2.2. Personnel actions under this exemption shall be taken without regard to race, sex, *sexual orientation*, *gender identity*, color, national origin, religion, age, handicap, or political affiliation.

B. The Board and the Executive Director shall be exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of Title 2.2.

§ 51.1-124.27. Employees of the Retirement System.

The officers and employees of the Virginia Retirement System shall be exempt from the provisions of § 2.2-1202.1 and of the Virginia Personnel Act (§ 2.2-2900 et seq.). Personnel actions shall be taken without regard to race, sex, *sexual orientation*, *gender identity*, color, national origin, religion, age, handicap, or political affiliation.

§ 51.5-166. Eligibility criteria.

The Commissioner shall establish eligibility criteria for services to be applied by programs awarded grants pursuant to this article. Such criteria shall provide that:

1. Eligibility shall be determined without regard to sex, *sexual orientation*, *gender identity*, race, national origin, religion, or type of impairment of the person applying for the service;

2. Preference shall be given to applicants for services whose impairments are so severe that they do not presently have the potential for employment, but whose ability to live and function independently within their family settings or communities may be improved by the services for which they have applied; and

3. Services shall not be provided to people who are eligible for prevocational or supported employment services through a Medicaid home and community based waiver program.

§ 51.5-170. Eligibility.

The Commissioner shall adopt written standards for determining eligibility for vocational rehabilitation services provided or funded, in whole or in part, by the Department, which ensure that eligibility is determined without regard to sex, *sexual orientation*, *gender identity*, race, national origin, religion, or type of impairment of the person applying for services and is determined solely by reference to specific written criteria.

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

No landlord shall unreasonably refuse or restrict the sale or rental of a manufactured home located in his manufactured home park by a tenant. No landlord shall prohibit the manufactured home owner from placing a "for sale" sign on or in the owner's home except that the size, placement, and character of all signs are subject to the rules and regulations of the manufactured home park. Prior to selling or leasing the manufactured home, the tenant shall give notice to the landlord, including the name of the prospective vendee or lessee if the prospective vendee or lessee intends to occupy the manufactured

home in that manufactured home park. The landlord shall have the burden of proving that his refusal or restriction regarding the sale or rental of a manufactured home was reasonable. The refusal or restriction of the sale or rental of a manufactured home exclusively or predominantly based on the age of the home shall be considered unreasonable. Any refusal or restriction based on race, color, religion, national origin, familial status, elderliness, handicap, ~~or~~ sex, *sexual orientation*, or *gender identity* shall be conclusively presumed to be unreasonable.

§ 58.1-3651. Property exempt from taxation by classification or designation by ordinance adopted by local governing body on or after January 1, 2003.

A. Pursuant to subsection 6 (a)(6) of Article X of the Constitution of Virginia, on and after January 1, 2003, any county, city, or town may by designation or classification exempt from real or personal property taxes, or both, by ordinance adopted by the local governing body, the real or personal property, or both, owned by a nonprofit organization, including a single member limited liability company whose sole member is a nonprofit organization, that uses such property for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes. The ordinance shall state the specific use on which the exemption is based, and continuance of the exemption shall be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated. No exemption shall be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, *sexual orientation*, *gender identity*, or national origin.

B. Any ordinance exempting property by designation pursuant to subsection A shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The local governing body shall publish notice of the hearing once in a newspaper of general circulation in the county, city, or town where the real property is located. The notice shall include the assessed value of the real and tangible personal property for which an exemption is requested as well as the property taxes assessed against such property. The public hearing shall not be held until at least five days after the notice is published in the newspaper. The local governing body shall collect the cost of publication from the organization requesting the property tax exemption. Before adopting any such ordinance the governing body shall consider the following questions:

1. Whether the organization is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code of 1954;

2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Board of Directors of the Virginia Alcoholic Beverage Control Authority to such organization, for use on such property;

3. Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders;

4. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in-kind or other material services;

5. Whether the organization provides services for the common good of the public;

6. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;

7. The revenue impact to the locality and its taxpayers of exempting the property; and

8. Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such ordinance.

C. Any ordinance exempting property by classification pursuant to subsection A shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The local governing body shall publish notice of the hearing once in a newspaper of general circulation in the county, city, or town. The public hearing shall not be held until at least five days after the notice is published in the newspaper.

D. Exemptions of property from taxation under this article shall be strictly construed in accordance with Article X, Section 6 (f) of the Constitution of Virginia.

E. Nothing in this section or in any ordinance adopted pursuant to this section shall affect the validity of either a classification exemption or a designation exemption granted by the General Assembly prior to January 1, 2003, pursuant to Article 2 (§ 58.1-3606 et seq.), 3 (§ 58.1-3609 et seq.) or 4 (§ 58.1-3650 et seq.) of this chapter. An exemption granted pursuant to Article 4 (§ 58.1-3650 et seq.) of this chapter may be revoked in accordance with the provisions of § 58.1-3605.

§ 58.1-4024. Employees of the Department.

2131 Employees of the Department shall be exempt from the provisions of the Virginia Personnel Act,
 2132 Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2. Personnel actions shall be taken without regard to race, sex,
 2133 *sexual orientation, gender identity*, color, national origin, religion, age, handicap, or political affiliation.

2134 **§ 62.1-129.1. Employees; employment; personnel rules; health insurance; retirement plans.**

2135 A. Employees of the Authority shall be employed on such terms and conditions as established by the
 2136 Authority. The Board of Commissioners of the Authority shall develop and adopt personnel rules,
 2137 policies, and procedures to give its employees grievance rights, ensure that employment decisions shall
 2138 be based upon the merit and fitness of applicants, and prohibit discrimination because of race, religion,
 2139 color, sex, *sexual orientation, gender identity*, or national origin.

2140 B. The Authority shall issue a written notice to its employees regarding the Authority's status. The
 2141 date upon which such written notice is issued shall be referred to herein as the "option date." Each
 2142 employee may, by written request made within 180 days of the option date, elect not to become
 2143 employed by the Authority. Any employee of the Virginia Port Authority who: (i) elects not to become
 2144 employed by the Authority and who is not reemployed by any other department, institution, board,
 2145 commission or agency of the Commonwealth; (ii) is not offered the opportunity to remain employed by
 2146 the Authority; or (iii) is not offered a position with the Authority for which the employee is qualified or
 2147 is offered a position that requires relocation or a reduction in salary, shall be eligible for the severance
 2148 benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee
 2149 who accepts employment with the Authority shall not be considered to be involuntarily separated from
 2150 state employment and shall not be eligible for the severance benefits conferred by the Workforce
 2151 Transition Act.

2152 C. Any employee of the Authority who is a member of any plan providing health insurance coverage
 2153 pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2, shall continue to be a member of such health
 2154 insurance plan under the same terms and conditions. Notwithstanding subsection A of § 2.2-2818, the
 2155 costs of providing health insurance coverage to such employees who elect to continue to be members of
 2156 the state employees' health insurance plan shall be paid by the Authority. Alternatively, an employee
 2157 may elect to become a member of any health insurance plan established by the Authority. The Authority
 2158 is authorized to: (i) establish a health insurance plan for the benefit of its employees and (ii) enter into
 2159 agreements with the Department of Human Resource Management providing for the coverage of its
 2160 employees under the state employees' health insurance plan, provided that such agreement requires the
 2161 Authority to pay the costs of providing health insurance coverage under such plan.

2162 D. Any retired employee of the Authority shall be eligible to receive the health insurance credit set
 2163 forth in § 51.1-1400 provided the retired employee meets the eligibility criteria set forth in that section.

2164 E. Any Authority employee who is a member of the Virginia Retirement System or other retirement
 2165 plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1, shall continue to be a
 2166 member of the Virginia Retirement System or other authorized retirement plan under the same terms and
 2167 conditions. Alternatively, such employee may elect to become a member of the retirement program
 2168 established by the Authority for the benefit of its employees pursuant to § 51.1-126.4. The following
 2169 rules shall apply:

2170 1. The Authority shall collect and pay all employee and employer contributions to the Virginia
 2171 Retirement System or other such authorized retirement plan for retirement and group life insurance in
 2172 accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for any employee who
 2173 elects to remain a member of the Virginia Retirement System or other such authorized retirement plan.

2174 2. Employees who elect to become members of the alternative retirement plan established by the
 2175 Authority pursuant to § 51.1-126.4 shall be given full credit for their creditable service as defined in
 2176 § 51.1-124.3, and vesting and benefit accrual under the retirement plan. For any such employee,
 2177 employment with the Authority shall be treated as employment with any nonparticipating employer for
 2178 purposes of the Virginia Retirement System or other retirement plan authorized pursuant to Article 4
 2179 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1.

2180 3. For employees who elect to become members of the alternative retirement plan established by the
 2181 Authority, the Virginia Retirement System or other such authorized plan shall transfer to the alternative
 2182 retirement plan established by the Authority, assets equal to the actuarially determined present value of
 2183 the accrued basic benefits as of the transfer date. For purposes hereof, the "basic benefits" means the
 2184 benefits accrued under the Virginia Retirement System or other such authorized retirement plan based on
 2185 creditable service and average final compensation as defined in § 51.1-124.3. The actuarial present value
 2186 shall be determined by using the same actuarial factors and assumptions used in determining the funding
 2187 needs of the Virginia Retirement System or other such authorized retirement plan so that the transfer of
 2188 assets to the alternative retirement plan established by the Authority will have no effect on the funded
 2189 status and financial stability of the Virginia Retirement System or other such authorized retirement plan.
 2190 The Authority shall reimburse the Virginia Retirement System for the cost of actuarial services
 2191 necessary to determine the present value of the accrued basic benefit of employees who transfer to an

Authority retirement plan.

4. The Authority may provide that employees of the Authority who are eligible to participate in the deferred compensation plan sponsored by the Authority shall be enrolled automatically in such plan, unless such employee elects, in a manner prescribed by the Board, not to participate. The amount of the deferral under the automatic enrollment and the group of employees to which the automatic enrollment shall apply shall be set by the Board; provided however, that such employees are provided the opportunity to increase or decrease the amount of the deferral in accordance with the Internal Revenue Code of 1986, as amended.

§ 63.2-608. Virginia Initiative for Education and Work (VIEW).

A. The Department shall establish and administer the Virginia Initiative for Education and Work (VIEW) to reduce long-term dependence on welfare, emphasize personal responsibility, and enhance opportunities for personal initiative and self-sufficiency by promoting the value of work. The Department shall endeavor to develop placements for VIEW participants that will enable participants to develop job skills that are likely to result in independent employment and that take into consideration the proficiency, experience, skills, and prior training of a participant.

VIEW shall recognize clearly defined responsibilities and obligations on the part of public assistance recipients and shall include a written agreement of personal responsibility requiring parents to participate in work activities while receiving TANF, earned-income disregards to reduce disincentives to work, and a limit on TANF financial assistance.

VIEW shall require all able-bodied recipients of TANF who do not meet an exemption to participate in a work activity. VIEW shall require eligible TANF recipients to participate in unsubsidized, partially subsidized or fully subsidized employment or other allowable TANF work activity as defined by federal law and enter into an agreement of personal responsibility.

B. To the maximum extent permitted by federal law, and notwithstanding other provisions of Virginia law, the Department and local departments may, through applicable procurement laws and regulations, engage the services of public and private organizations to operate VIEW and to provide services incident to such operation.

C. All VIEW participants shall be under the direction and supervision of a case manager.

D. The Department shall ensure that participants are assigned to one of the following work activities within 90 days after the approval of TANF assistance:

1. Unsubsidized private-sector employment;
2. Subsidized employment, as follows:

a. The Department shall conduct a program in accordance with this section that shall be known as the Full Employment Program (FEP). FEP replaces TANF with subsidized employment. Persons not able to find unsubsidized employment who are otherwise eligible for TANF may participate in FEP unless exempted by this chapter. FEP shall assign participants to subsidized wage-paying private-sector jobs designed to increase the participants' self-sufficiency and improve their competitive position in the workforce.

b. Participants in FEP shall be placed in full-time employment when appropriate and shall be paid by the employer at an hourly rate not less than the federal or state minimum wage, whichever is higher. At no point shall a participant's spendable income received from wages and tax credits be less than the value of TANF received prior to the work placement.

c. Every employer subject to the Virginia unemployment insurance tax shall be eligible for assignment of FEP participants, but no employer shall be required to utilize such participants. Employers shall ensure that jobs made available to FEP participants are in conformity with § 3304(a)(5) of the Federal Unemployment Tax Act. FEP participants cannot be used to displace regular workers.

d. FEP employers shall:

- (i) Endeavor to make FEP placements positive learning and training experiences;
- (ii) Provide on-the-job training to the degree necessary for the participants to perform their duties;
- (iii) Pay wages to participants at the same rate that they are paid to other employees performing the same type of work and having similar experience and employment tenure;
- (iv) Provide sick leave, holiday and vacation benefits to participants to the same extent and on the same basis that they are provided to other employees performing the same type of work and having similar employment experience and tenure;
- (v) Maintain health, safety and working conditions at or above levels generally acceptable in the industry and no less than those in which other employees perform the same type of work;
- (vi) Provide workers' compensation coverage for participants;
- (vii) Encourage volunteer mentors from among their other employees to assist participants in becoming oriented to work and the workplace; and
- (viii) Sign an agreement with the local department outlining the employer requirements to participate in FEP. All agreements shall include notice of the employer's obligation to repay FEP reimbursements in

2253 the event the employer violates FEP rules.

2254 e. As a condition of FEP participation, employers shall be prohibited from discriminating against any
 2255 person, including program participants, on the basis of race, color, sex, *sexual orientation*, *gender*
 2256 *identity*, national origin, religion, age, or disability;

2257 3. Part-time or temporary employment;

2258 4. Community work experience, as follows:

2259 a. The Department and local departments shall work with other state, regional and local agencies and
 2260 governments in developing job placements that serve a useful public purpose as provided in § 482(f) of
 2261 the Social Security Act, as amended. Placements shall be selected to provide skills and serve a public
 2262 function. VIEW participants shall not displace regular workers.

2263 b. The number of hours per week for participants shall be determined by combining the total dollar
 2264 amount of TANF and food stamps and dividing by the minimum wage with a maximum of a work
 2265 week of 32 hours, of which up to 12 hours of employment-related education and training may substitute
 2266 for work experience employment; or

2267 5. Any other allowable TANF work activity as defined by federal law.

2268 E. Notwithstanding the provisions of subsections A and D, if a local department determines that a
 2269 VIEW participant is in need of job skills and would benefit from immediate job skills training, it may
 2270 place the participant in a program preparing individuals for a high school equivalency examination
 2271 approved by the Board of Education, a career and technical education program targeted at skills required
 2272 for particular employment opportunities, or an apprenticeship program developed by the local department
 2273 in accordance with requirements established by the Department. Eligible participants include those with
 2274 problems related to obtaining and retaining employment, such as participants (i) with less than a high
 2275 school education, (ii) whose reading or math skills are at or below the eighth grade level, (iii) who have
 2276 not retained a job for a period of at least six months during the prior two years, or (iv) who are in a
 2277 treatment program for a substance abuse problem or are receiving services through a family violence
 2278 treatment program. The VIEW participant may continue in a high school equivalency examination
 2279 preparation program, career and technical education program, or apprenticeship program for as long as
 2280 the local department determines he is progressing satisfactorily and to the extent permitted by the
 2281 Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), as amended.

2282 F. Participants may be reevaluated after a period determined by the local department and reassigned
 2283 to another work component. In addition, the number of hours worked may be reduced by the local
 2284 department so that a participant may complete additional training or education to further his
 2285 employability.

2286 G. Local departments shall be authorized to sanction parents up to the full amount of the TANF
 2287 grant for noncompliance, unless good cause exists.

2288 H. VIEW participants shall not be assigned to projects that require that they travel unreasonable
 2289 distances from their homes or remain away from their homes overnight without their consent.

2290 Any injury to a VIEW participant arising out of and in the course of community work experience
 2291 shall be covered by the participant's existing Medicaid coverage. If a community work experience
 2292 participant is unable to work due to such an accident, his status shall be reviewed to determine whether
 2293 he is eligible for an exemption from the limitation on TANF financial assistance.

2294 A community work experience participant who becomes incapacitated for 30 days or more shall be
 2295 eligible for TANF financial assistance for the duration of the incapacity, if otherwise eligible.

2296 The Board shall adopt regulations providing for the accrual of paid sick leave or other equivalent
 2297 mechanism for community work experience participants.