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HOUSE BILL NO. 1971

Offered January 13, 2021

Prefiled January 11, 2021

A BILL to amend and reenact § 36-96.3:2 of the Code of Virginia, relating to the Virginia Fair Housing Law; reasonable accommodations; disability-related requests for parking.

Patrons—Carr, Keam, Kory and Levine; Senator: McClellan

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 36-96.3:2 of the Code of Virginia is amended and reenacted as follows:

§ 36-96.3:2. Reasonable accommodations; interactive process.

A. When a request for a reasonable accommodation establishes that such accommodation is necessary to afford a person with a disability, and who has a disability-related need, an equal opportunity to use and enjoy a dwelling and does not impose either (i) an undue financial and administrative burden or (ii) a fundamental alteration to the nature of the operations of the person receiving the request, the request for the accommodation is reasonable and shall be granted.

B. When a request for a reasonable accommodation may impose either (i) an undue financial and administrative burden or (ii) a fundamental alteration to the nature of the operations of the person receiving the request, the person receiving the request shall offer to engage in a good-faith interactive process to determine if there is an alternative accommodation that would effectively address the disability-related needs of the requester. An interactive process is not required when the requester does not have a disability and a disability-related need for the requested accommodation. As part of the interactive process, unless the reasonableness and necessity for the accommodation has been established by the requester, a request may be made for additional supporting documentation to evaluate the reasonableness of either the requested accommodation or any identified alternative accommodations. If an alternative accommodation is identified that effectively meets the requester's disability-related needs and is reasonable, the person receiving the reasonable accommodation request shall make the effective alternative accommodation. However, the requester shall not be required to accept an alternative accommodation if the requested accommodation is also reasonable. The various factors to be considered for determining whether an accommodation imposes an undue financial and administrative burden include (a) the cost of the requested accommodation, including any substantial increase in the cost of the owner's insurance policy; (b) the financial resources of the person receiving the request; (c) the benefits that the accommodation would provide to the person with a disability; and (d) the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

C. A request for a reasonable accommodation shall be determined on a case-by-case basis and may be denied if (i) the person on whose behalf the request for an accommodation was submitted is not disabled; (ii) there is no disability-related need for the accommodation; (iii) the accommodation imposes an undue financial and administrative burden on the person receiving the request; or (iv) the accommodation would fundamentally alter the nature of the operations of the person receiving the request. With respect to a request for reasonable accommodation to maintain an assistance animal in a dwelling, the requested assistance animal shall (a) work, provide assistance, or perform tasks or services for the benefit of the requester or (b) provide emotional support that alleviates one or more of the identified symptoms or effects of such requester's existing disability. In addition, as determined by the person receiving the request, the requested assistance animal shall not pose a clear and present threat of substantial harm to others or to the dwelling itself that is not solely based on breed, size, or type or cannot be reduced or eliminated by another reasonable accommodation.

D. *When a person receives a request for accessible parking to accommodate a disability, the person receiving the request shall treat such request as a reasonable accommodation as provided by this chapter. Providing a parking accommodation may include creating signage, painting markings, redistributing or reconfiguring space, or creating curb cuts. Any costs, fees, or charges related to the installation, designation, marking, or reconfiguration of a parking space related to such reasonable accommodation request shall be borne by the person receiving the request.*

2. That the provisions of this act are declarative of existing law.

INTRODUCED

HB1971