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## HOUSE BILL NO. 2161

## FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Delegate Tran  
on February 2, 2021)

(Patron Prior to Substitute—Delegate Tran)

A *BILL to amend and reenact §§ 2.2-2901.1, 2.2-3004, 2.2-3900, 2.2-3901, 2.2-3902, 2.2-3904, 2.2-3905, 15.2-853, 15.2-854, 15.2-965, 15.2-1500.1, 15.2-1507, 15.2-1604, 22.1-295.2, 22.1-306, 36-96.1 through 36-96.3, 36-96.4, 36-96.6, 55.1-1208, and 55.1-1310 of the Code of Virginia, relating to public accommodations, employment, and housing; prohibited discrimination on the basis of status as active military or a military spouse.*

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 2.2-2901.1, 2.2-3004, 2.2-3900, 2.2-3901, 2.2-3902, 2.2-3904, 2.2-3905, 15.2-853, 15.2-854, 15.2-965, 15.2-1500.1, 15.2-1507, 15.2-1604, 22.1-295.2, 22.1-306, 36-96.1 through 36-96.3, 36-96.4, 36-96.6, 55.1-1208, and 55.1-1310 of the Code of Virginia are amended and reenacted as follows:

**§ 2.2-2901.1. Employment discrimination prohibited.**

A. For the purposes of As used in this section, "age":

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

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

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

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

**§ 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 (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, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, or *military status as a veteran*; (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

60 of the employee's request for a hearing. A copy of the decision shall be sent to the employee. The  
61 employee may appeal the denial of a hearing by the agency head to the Director of the Department of  
62 Human Resource Management (the Director). Upon receipt of an appeal, the agency shall transmit the  
63 entire grievance record to the Department of Human Resource Management within five workdays. The  
64 Director shall render a decision on whether the employee is entitled to a hearing upon the grievance  
65 record and other probative evidence.

66 E. The hearing pursuant to § 2.2-3005 shall be held in the locality in which the employee is  
67 employed or in any other locality agreed to by the employee, employer, and hearing officer. The  
68 employee and the agency may be represented by legal counsel or a lay advocate, the provisions of  
69 § 54.1-3904 notwithstanding. The employee and the agency may call witnesses to present testimony and  
70 be cross-examined.

71 **§ 2.2-3900. Short title; declaration of policy.**

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

73 B. It is the policy of the Commonwealth to:

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

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

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

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

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

84 **§ 2.2-3901. Definitions.**

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

90 B. The term "gender identity," when used in reference to discrimination in the Code and acts of the  
91 General Assembly, means the gender-related identity, appearance, or other gender-related characteristics  
92 of an individual, with or without regard to the individual's designated sex at birth.

93 C. The term "sexual orientation," when used in reference to discrimination in the Code and acts of  
94 the General Assembly, means a person's actual or perceived heterosexuality, bisexuality, or  
95 homosexuality.

96 D. The terms "because of race" or "on the basis of race" or terms of similar import when used in  
97 reference to discrimination in the Code and acts of the General Assembly include because of or on the  
98 basis of traits historically associated with race, including hair texture, hair type, and protective hairstyles  
99 such as braids, locks, and twists.

100 E. ~~For purposes of~~ As used in this chapter, "~~lactation~~", *unless the context requires a different*  
101 *meaning:*

102 "*Lactation*" means a condition that may result in the feeding of a child directly from the breast or  
103 the expressing of milk from the breast.

104 "*Military status*" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C.  
105 § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a  
106 veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) *except*  
107 *that the support provided by the service member to the individual shall have been provided 180 days*  
108 *immediately preceding an alleged action that if proven true would constitute unlawful discrimination*  
109 *under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C.*  
110 *Chapter 50.*

111 **§ 2.2-3902. Construction of chapter; other programs to aid persons with disabilities, minors,**  
112 **and the elderly.**

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

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

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

121 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.

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

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

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

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

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

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

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

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

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

A. As used in this section:

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

"Employee" means an individual employed by an employer.

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

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

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

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

"Lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

B. It is an unlawful employment practice for:

1. An employer to:

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

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

193 2. An employment agency to:

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

197 b. Classify or refer for employment any individual on the basis of such individual's race, color,  
198 religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical  
199 conditions, age, *military* status as a ~~veteran~~, or national origin.

200 3. A labor organization to:

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

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

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

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

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

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

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

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

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

244 1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or refer

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

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

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

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

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

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

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

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

#### **§ 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, *military status as a veteran*, age, marital status, sexual orientation, gender identity, or disability. The board may enact an ordinance establishing a local commission on human rights that shall have the following powers and duties:

1. To promote policies to ensure that all persons be afforded equal opportunity;
2. To serve as an agency for receiving, investigating, holding hearings, processing, and assisting in the voluntary resolution of complaints regarding discriminatory practices occurring within the county;
3. With the approval of the county attorney, to seek, through appropriate enforcement authorities, prevention of or relief from a violation of any ordinance prohibiting discrimination; and
4. To exercise such other powers and duties as provided in this article. However, the commission shall have no power itself to issue subpoenas, award damages, or grant injunctive relief.

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

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a

306 *veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except*  
307 *that the support provided by the service member to the individual shall have been provided 180 days*  
308 *immediately preceding an alleged action that if proven true would constitute unlawful discrimination*  
309 *under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C.*  
310 *Chapter 50.*

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

313 **§ 15.2-854. Investigations.**

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

328 **§ 15.2-965. Human rights ordinances and commissions.**

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

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

336 C. As used in this section:

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

339 "*Military status*" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C.  
340 § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a  
341 *veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except*  
342 *that the support provided by the service member to the individual shall have been provided 180 days*  
343 *immediately preceding an alleged action that if proven true would constitute unlawful discrimination*  
344 *under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C.*  
345 *Chapter 50.*

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

348 **§ 15.2-1500.1. Employment discrimination prohibited; sexual orientation or gender identity.**

349 A. As used in this section, "~~age~~" article, unless the context requires a different meaning:

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

351 "*Military status*" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C.  
352 § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a  
353 *veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except*  
354 *that the support provided by the service member to the individual shall have been provided 180 days*  
355 *immediately preceding an alleged action that if proven true would constitute unlawful discrimination*  
356 *under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C.*  
357 *Chapter 50.*

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

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

365 **§ 15.2-1507. Provision of grievance procedure; training programs.**

366 A. If a local governing body fails to adopt a grievance procedure required by § 15.2-1506 or fails to  
367 certify it as provided in this section, the local governing body shall be deemed to have adopted a

grievance procedure 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 (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 clause (iii) of subdivision 2; (iii) discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin, sex, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, or *military status as a veteran*; 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 that 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), the action shall be upheld upon a showing by the local government that (a) there was a valid business reason for the action and (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 a, 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

429 an up-to-date list of the affected positions.

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

441 5. General requirements for procedures.

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

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

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

450 6. Time periods.

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

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

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

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

458 7. Compliance.

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

465 b. The chief administrative officer, or his designee, at his option, may require a clear written  
466 explanation of the basis for just cause extensions or exceptions. The chief administrative officer, or his  
467 designee, shall determine compliance issues. Compliance determinations made by the chief  
468 administrative officer shall be subject to judicial review by filing petition with the circuit court within  
469 30 days of the compliance determination.

470 8. Management steps.

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

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

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

482 9. Qualification for panel or administrative hearing.

483 a. Decisions regarding grievability and access to the procedure shall be made by the chief  
484 administrative officer of the local government, or his designee, at any time prior to the panel hearing, at  
485 the request of the local government or grievant, within 10 calendar days of the request. No city, town,  
486 or county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of  
487 grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative  
488 officer of the local government, or his designee, may be appealed to the circuit court having jurisdiction  
489 in the locality in which the grievant is employed for a hearing on the issue of whether the grievance  
490 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), 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.

552 b. Rules for panel and administrative hearings.

553 Unless otherwise provided by law, local governments shall adopt rules for the conduct of panel or  
554 administrative hearings as a part of their grievance procedures, or shall adopt separate rules for such  
555 hearings. Rules that are promulgated shall include the following provisions:

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

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

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

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

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

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

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

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

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

579 11. Implementation of final hearing decisions.

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

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

587 **§ 15.2-1604. Appointment of deputies and employment of employees; discriminatory practices**  
588 **by certain officers; civil penalty.**

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

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

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

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

605 C. With regard to notices and advertisements:

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

staff positions, or special, sensitive law-enforcement positions normally regarded as undercover work.

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

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

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

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

**§ 22.1-295.2. Employment discrimination prohibited.**

A. ~~For the purposes of~~ *As used in this section, "age":*

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

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

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

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

**§ 22.1-306. Definitions.**

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

*"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 (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, religion, political affiliation, disability, age, national origin, sex, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, or *military status as a veteran*. 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) (a) establishment and revision of wages or salaries, position classifications, or general benefits; (2) (b) suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved continuing contract status; (3) (c) the establishment or contents of ordinances, statutes, or personnel policies, procedures, rules, and regulations; (4) (d) failure to promote; (5) (e) discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in enrollment or abolition of a particular subject, or insufficient funding; (6) (f) hiring, transfer, assignment, and retention of teachers within the school division; (7) (g) suspension from duties in emergencies; (8) (h) the methods, means, and personnel by which the school division's operations are to be carried on; or (9) (i) 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.

675 "Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C.  
676 § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a  
677 veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except  
678 that the support provided by the service member to the individual shall have been provided 180 days  
679 immediately preceding an alleged action that if proven true would constitute unlawful discrimination  
680 under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C.  
681 Chapter 50.

682 **§ 36-96.1. Declaration of policy.**

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

684 B. It is the policy of the Commonwealth of Virginia to provide for fair housing throughout the  
685 Commonwealth, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness,  
686 familial status, source of funds, sexual orientation, gender identity, *military status as a veteran*, or  
687 disability, and to that end to prohibit discriminatory practices with respect to residential housing by any  
688 person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all  
689 the inhabitants of the Commonwealth may be protected and ensured. This law shall be deemed an  
690 exercise of the police power of the Commonwealth of Virginia for the protection of the people of the  
691 Commonwealth.

692 **§ 36-96.1:1. Definitions.**

693 For the purposes of this chapter, unless the context clearly indicates otherwise requires a different  
694 meaning:

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

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

707 "Complainant" means a person, including the Fair Housing Board, who files a complaint under  
708 § 36-96.9.

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

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

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

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

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

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

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

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

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

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

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

"Person" means one or more individuals, 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" includes 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, *military* status as a *veteran*, or disability.

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

"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

798 giving preferences to such persons, unless membership in such religion is restricted on account of race,  
799 color, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military* status  
800 as a ~~veteran~~, or disability. Nor shall anything in this chapter apply to a private membership club not in  
801 fact open to the public, which as an incident to its primary purpose or purposes provides lodging that it  
802 owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such  
803 lodgings to its members or from giving preference to its members. Nor, where matters of personal  
804 privacy are involved, shall anything in this chapter be construed to prohibit any private, state-owned, or  
805 state-supported educational institution, hospital, nursing home, or religious or correctional institution  
806 from requiring that persons of both sexes not occupy any single-family residence or room or unit of  
807 dwellings or other buildings, or restrooms in such room or unit in dwellings or other buildings, which it  
808 owns or operates.

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

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

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

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

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

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

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

### 843 § 36-96.3. Unlawful discriminatory housing practices.

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

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

849 2. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a  
850 dwelling, or in the provision of services or facilities in the connection therewith to any person because  
851 of race, color, religion, national origin, sex, elderliness, source of funds, familial status, sexual  
852 orientation, gender identity, or *military* status as a ~~veteran~~;

853 3. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or  
854 advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or  
855 discrimination or an intention to make any such preference, limitation, or discrimination on the basis of  
856 race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation,  
857 gender identity, *military* status as a ~~veteran~~, or disability. The use of words or symbols associated with a  
858 particular religion, national origin, sex, or race shall be prima facie evidence of an illegal preference  
859 under this chapter that shall not be overcome by a general disclaimer. However, reference alone to

places of worship, including churches, synagogues, temples, or mosques, in any such notice, statement, or advertisement shall not be prima facie evidence of an illegal preference;

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

5. 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 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, source of funds, sexual orientation, gender identity, *military status as a veteran*, or disability;

6. 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, source of funds, sexual orientation, gender identity, *military status as a veteran*, or disability or for any person to honor or exercise, or attempt to honor or exercise, any such discriminatory covenant pertaining to housing;

7. 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, source of funds, sexual orientation, gender identity, *military status as a veteran*, or disability;

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

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

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

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

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

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

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

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

A. It is unlawful for any person or other entity, including any lending institution, whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, or in the manner of providing such a transaction, because of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military status as a veteran*, or disability. It is not unlawful,

921 however, for any person or other entity whose business includes engaging in residential real estate  
922 transactions to require any applicant to qualify financially for the loan or loans for which such person is  
923 making application.

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

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

928 2. The selling, brokering, insuring, or appraising of residential real property. However, nothing in this  
929 chapter shall prohibit a person engaged in the business of furnishing appraisals of real property to take  
930 into consideration factors other than race, color, religion, national origin, sex, elderliness, familial status,  
931 sexual orientation, gender identity, *military* status as a ~~veteran~~, or disability.

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

945 **§ 36-96.6. Certain restrictive covenants void; instruments containing such covenants.**

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

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

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

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

965 **§ 55.1-1208. Prohibited provisions in rental agreements.**

966 A. A rental agreement shall not contain provisions that the tenant:

967 1. Agrees to waive or forgo rights or remedies under this chapter;

968 2. Agrees to waive or forgo rights or remedies pertaining to the 120-day conversion or rehabilitation  
969 notice required in the Virginia Condominium Act (§ 55.1-1900 et seq.) or the Virginia Real Estate  
970 Cooperative Act (§ 55.1-2100 et seq.) or under § 55.1-1410;

971 3. Authorizes any person to confess judgment on a claim arising out of the rental agreement;

972 4. Agrees to pay the landlord's attorney fees except as provided in this chapter;

973 5. Agrees to the exculpation or limitation of any liability of the landlord to the tenant arising under  
974 law or to indemnify the landlord for that liability or any associated costs;

975 6. Agrees as a condition of tenancy in public housing to a prohibition or restriction of any lawful  
976 possession of a firearm within individual dwelling units unless required by federal law or regulation; or

977 7. Agrees to both the payment of a security deposit and the provision of a bond or commercial  
978 insurance policy purchased by the tenant to secure the performance of the terms and conditions of a  
979 rental agreement, if the total of the security deposit and the bond or insurance coverage exceeds the  
980 amount of two months' periodic rent; or

981 8. Agrees to waive remedies or rights under the Servicemembers Civil Relief Act, 50 U.S.C. § 3901 et  
982 seq., prior to the occurrence of a dispute between landlord and tenant. Execution of leases shall not be



contingent upon the execution of a waiver of rights under the Servicemembers Civil Relief Act; however, upon the occurrence of any dispute, the landlord and tenant may execute a waiver of such rights and remedies as to that dispute in order to facilitate a resolution.

B. Any provision prohibited by subsection A that is included in a rental agreement is unenforceable. If a landlord brings an action to enforce any such provision, the tenant may recover actual damages sustained by him and reasonable attorney fees.

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

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

B. 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, ~~military status as a veteran~~, familial status, marital status, elderliness, disability, sexual orientation, gender identity, sex, or pregnancy, childbirth or related medical conditions shall be conclusively presumed to be unreasonable.