

21103422D

SENATE BILL NO. 1410

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on January 27, 2021)

(Patron Prior to Substitute—Senator Bell)

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, 55.1-1226, 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, 55.1-1226, 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 Armed Forces of the United States, or a reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined in 10 U.S.C. § 101 or 32 U.S.C. § 101; (iii) a veteran who has served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable, as defined in § 2.2-2000.1; (iv) a spouse or child, as defined in 50 U.S.C. § 3911(4); or (v) an individual for whom the service member provided more than one-half of the individual's support for at least 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination pursuant to this section, as defined in 50 U.S.C. § 3911(4)(C).

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

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

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

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

B. It is the policy of the Commonwealth to:

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

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

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

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

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

§ 2.2-3901. Definitions.

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

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

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

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

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

"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.

"Military status" means status as (i) a member of the Armed Forces of the United States, or a reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined in 10 U.S.C. § 101 or 32 U.S.C. § 101; (iii) a veteran who has served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable, as defined in § 2.2-2000.1; (iv) a spouse or child, as defined in 50 U.S.C. § 3911(4); or (v) an individual for whom the service member provided more than one-half of the individual's support for at least 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination pursuant to this chapter, as defined in 50 U.S.C. § 3911(4)(C).

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

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

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

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

rehabilitate, or accommodate that person.

In addition, nothing in this chapter shall be construed to affect any governmental program, law or activity differentiating between persons on the basis of age over the age of 18 years (i) where the differentiation is reasonably necessary to normal operation or the activity is based upon reasonable factors other than age or (ii) where the program, law or activity constitutes a legitimate exercise of powers of the Commonwealth for the general health, safety and welfare of the population at large.

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

§ 2.2-3904. 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.

183 B. It is an unlawful employment practice for:
184 1. An employer to:
185 a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to
186 such individual's compensation, terms, conditions, or privileges of employment because of such
187 individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy,
188 childbirth or related medical conditions including lactation, age, *military* status as a ~~veteran~~, or national
189 origin; or
190 b. Limit, segregate, or classify employees or applicants for employment in any way that would
191 deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an
192 individual's status as an employee, because of such individual's race, color, religion, sex, sexual
193 orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including
194 lactation, age, *military* status as a ~~veteran~~, or national origin.
195 2. An employment agency to:
196 a. Fail or refuse to refer for employment, or otherwise discriminate against, any individual because of
197 such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy,
198 childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin; or
199 b. Classify or refer for employment any individual on the basis of such individual's race, color,
200 religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical
201 conditions, age, *military* status as a ~~veteran~~, or national origin.
202 3. A labor organization to:
203 a. Exclude or expel from its membership, or otherwise discriminate against, any individual because
204 of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status,
205 pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin;
206 b. Limit, segregate, or classify its membership or applicants for membership, or classify or fail to or
207 refuse to refer for employment any individual, in any way that would deprive or tend to deprive such
208 individual of employment opportunities, or would limit such employment opportunities or otherwise
209 adversely affect an individual's status as an employee or as an applicant for employment, because of
210 such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy,
211 childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin; or
212 c. Cause or attempt to cause an employer to discriminate against an individual in violation of
213 subdivisions a or b.
214 4. An employer, labor organization, or joint apprenticeship committee to discriminate against any
215 individual in any program to provide apprenticeship or other training program on the basis of such
216 individual's race, color, religion, sex, sexual orientation, gender identity, pregnancy, childbirth or related
217 medical conditions, age, *military* status as a ~~veteran~~, or national origin.
218 5. An employer, in connection with the selection or referral of applicants or candidates for
219 employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the
220 results of employment-related tests on the basis of race, color, religion, sex, sexual orientation, gender
221 identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a
222 ~~veteran~~, or national origin.
223 6. Except as otherwise provided in this chapter, an employer to use race, color, religion, sex, sexual
224 orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age,
225 *military* status as a ~~veteran~~, or national origin as a motivating factor for any employment practice, even
226 though other factors also motivate the practice.
227 7. (i) An employer to discriminate against any employees or applicants for employment, (ii) an
228 employment agency or a joint apprenticeship committee controlling an apprenticeship or other training
229 program to discriminate against any individual, or (iii) a labor organization to discriminate against any
230 member thereof or applicant for membership because such individual has opposed any practice made an
231 unlawful employment practice by this chapter or because such individual has made a charge, testified,
232 assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.
233 8. An employer, labor organization, employment agency, or joint apprenticeship committee
234 controlling an apprenticeship or other training program to print or publish, or cause to be printed or
235 published, any notice or advertisement relating to (i) employment by such an employer, (ii) membership
236 in or any classification or referral for employment by such a labor organization, (iii) any classification or
237 referral for employment by such an employment agency, or (iv) admission to, or employment in, any
238 program established to provide apprenticeship or other training by such a joint apprenticeship committee
239 that indicates any preference, limitation, specification, or discrimination based on race, color, religion,
240 sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical
241 conditions, age, *military* status as a ~~veteran~~, or national origin, except that such a notice or
242 advertisement may indicate a preference, limitation, specification, or discrimination based on religion,
243 sex, age, or national origin when religion, sex, age, or national origin is a bona fide occupational
244 qualification for employment.

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

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*:

306 "Military status" means status as (i) a member of the Armed Forces of the United States, or a
307 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as
308 defined in 10 U.S.C. § 101 or 32 U.S.C. § 101; (iii) a veteran who has served in the active military,
309 naval, or air service and who was discharged or released therefrom under conditions other than
310 dishonorable, as defined in § 2.2-2000.1; (iv) a spouse or child, as defined in 50 U.S.C. § 3911(4); or
311 (v) an individual for whom the service member provided more than one-half of the individual's support
312 for at least 180 days immediately preceding an alleged action that if proven true would constitute
313 unlawful discrimination under a local ordinance enacted pursuant to this section, as defined in 50
314 U.S.C. § 3911(4)(C).

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

317 **§ 15.2-854. Investigations.**

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

332 **§ 15.2-965. Human rights ordinances and commissions.**

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

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

340 C. As used in this section:

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

343 "Military status" means status as (i) a member of the Armed Forces of the United States, or a
344 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as
345 defined in 10 U.S.C. § 101 or 32 U.S.C. § 101; (iii) a veteran who has served in the active military,
346 naval, or air service and who was discharged or released therefrom under conditions other than
347 dishonorable, as defined in § 2.2-2000.1; (iv) a spouse or child, as defined in 50 U.S.C. § 3911(4); or
348 (v) an individual for whom the service member provided more than one-half of the individual's support
349 for at least 180 days immediately preceding an alleged action that if proven true would constitute
350 unlawful discrimination under a local ordinance enacted pursuant to this section, as defined in 50
351 U.S.C. § 3911(4)(C).

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

354 **§ 15.2-1500.1. Employment discrimination prohibited; sexual orientation or gender identity.**

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

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

357 "Military status" means status as (i) a member of the Armed Forces of the United States, or a
358 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as
359 defined in 10 U.S.C. § 101 or 32 U.S.C. § 101; (iii) a veteran who has served in the active military,
360 naval, or air service and who was discharged or released therefrom under conditions other than
361 dishonorable, as defined in § 2.2-2000.1; (iv) a spouse or child, as defined in 50 U.S.C. § 3911(4); or
362 (v) an individual for whom the service member provided more than one-half of the individual's support
363 for at least 180 days immediately preceding an alleged action that if proven true would constitute
364 unlawful discrimination pursuant to this article, as defined in 50 U.S.C. § 3911(4)(C).

365 B. No department, office, board, commission, agency, or instrumentality of local government shall
366 discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy,
367 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.

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

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

429 pursuant to those provisions in the resolution of their grievance, or any other employee electing to
430 proceed pursuant to any other existing procedure in the resolution of his grievance.

431 b. Notwithstanding the exceptions set forth in subdivision a, local governments, at their sole
432 discretion, may voluntarily include employees in any of the excepted categories within the coverage of
433 their grievance procedures.

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

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

448 5. General requirements for procedures.

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

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

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

457 6. Time periods.

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

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

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

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

465 7. Compliance.

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

472 b. The chief administrative officer, or his designee, at his option, may require a clear written
473 explanation of the basis for just cause extensions or exceptions. The chief administrative officer, or his
474 designee, shall determine compliance issues. Compliance determinations made by the chief
475 administrative officer shall be subject to judicial review by filing petition with the circuit court within
476 30 days of the compliance determination.

477 8. Management steps.

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

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

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

489 9. Qualification for panel or administrative hearing.

490 a. Decisions regarding grievability and access to the procedure shall be made by the chief

administrative officer of the local government, or his designee, at any time prior to the panel hearing, at the request of the local government or grievant, within 10 calendar days of the request. No city, town, or county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative officer of the local government, or his designee, may be appealed to the circuit court having jurisdiction in the locality in which the grievant is employed for a hearing on the issue of whether the grievance qualifies for a panel hearing. Proceedings for review of the decision of the chief administrative officer or his designee shall be instituted by the grievant by filing a notice of appeal with the chief administrative officer within 10 calendar days from the date of receipt of the decision and giving a copy thereof to all other parties. Within 10 calendar days thereafter, the chief administrative officer or his designee shall transmit to the clerk of the court to which the appeal is taken: a copy of the decision of the chief administrative officer, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the court shall also be furnished to the grievant. The failure of the chief administrative officer or his designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the chief administrative officer to transmit the record on or before a certain date.

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

10. Final hearings.

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

(1) If the grievance procedure adopted by the local governing body provides that the final step shall be an impartial panel hearing, the panel may, with the exception of those local governments covered by subdivision a (2), 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.

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

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

559 b. Rules for panel and administrative hearings.

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

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

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

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

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

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

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

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

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

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

586 11. Implementation of final hearing decisions.

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

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

594 **§ 15.2-1604. Appointment of deputies and employment of employees; discriminatory practices**
595 **by certain officers; civil penalty.**

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

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

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

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

612 C. With regard to notices and advertisements:

613 1. Every constitutional officer shall, prior to hiring any employee, advertise such employment

position in a newspaper having general circulation or a state or local government job placement service in such constitutional officer's locality except where the vacancy is to be used (i) as a placement opportunity for appointees or employees affected by layoff, (ii) as a transfer opportunity or demotion for an incumbent, (iii) to fill positions that have been advertised within the past 120 days, (iv) to fill positions to be filled by appointees or employees returning from leave with or without pay, (v) to fill temporary positions, temporary employees being those employees hired to work on special projects that have durations of three months or less, or (vi) to fill policy-making positions, confidential or personal staff positions, or special, sensitive law-enforcement positions normally regarded as undercover work.

2. No constitutional officer shall print or publish or cause to be printed or published any notice or advertisement relating to employment by such constitutional officer indicating any preference, limitation, specification, or discrimination, based on sex or national origin, except that such notice or advertisement may indicate a preference, limitation, specification, or discrimination based on sex or 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 Armed Forces of the United States, or a reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined in 10 U.S.C. § 101 or 32 U.S.C. § 101; (iii) a veteran who has served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable, as defined in § 2.2-2000.1; (iv) a spouse or child, as defined in 50 U.S.C. § 3911(4); or (v) an individual for whom the service member provided more than one-half of the individual's support for at least 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination pursuant to this section, as defined in 50 U.S.C. § 3911(4)(C).

§ 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 Armed Forces of the United States, or a reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined in 10 U.S.C. § 101 or 32 U.S.C. § 101; (iii) a veteran who has served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable, as defined in § 2.2-2000.1; (iv) a spouse or child, as defined in 50 U.S.C. § 3911(4); or (v) an individual for whom the service member provided more than one-half of the individual's support for at least 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination pursuant to this section, as defined in 50 U.S.C. § 3911(4)(C).

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) establishment and revision of wages or salaries, position classifications, or general benefits; (2) suspension of a teacher or nonrenewal of the contract

675 of a teacher who has not achieved continuing contract status; ~~(3)~~ (c) the establishment or contents of
676 ordinances, statutes, or personnel policies, procedures, rules, and regulations; ~~(4)~~ (d) failure to promote;
677 ~~(5)~~ (e) discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in
678 enrollment or abolition of a particular subject, or insufficient funding; ~~(6)~~ (f) hiring, transfer, assignment,
679 and retention of teachers within the school division; ~~(7)~~ (g) suspension from duties in emergencies; ~~(8)~~
680 (h) the methods, means, and personnel by which the school division's operations are to be carried on; or
681 ~~(9)~~ (i) coaching or extracurricular activity sponsorship.

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

684 "Military status" means status as (i) a member of the Armed Forces of the United States, or a
685 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as
686 defined in 10 U.S.C. § 101 or 32 U.S.C. § 101; (iii) a veteran who has served in the active military,
687 naval, or air service and who was discharged or released therefrom under conditions other than
688 dishonorable, as defined in § 2.2-2000.1; (iv) a spouse or child, as defined in 50 U.S.C. § 3911(4); or
689 (v) an individual for whom the service member provided more than one-half of the individual's support
690 for at least 180 days immediately preceding an alleged action that if proven true would constitute
691 unlawful discrimination, as defined in 50 U.S.C. § 3911(4)(C).

692 **§ 36-96.1. Declaration of policy.**

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

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

702 **§ 36-96.1:1. Definitions.**

703 For the purposes of this chapter, unless the context ~~clearly indicates otherwise requires a different~~
704 *meaning*:

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

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

717 "Complainant" means a person, including the Fair Housing Board, who files a complaint under
718 § 36-96.9.

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

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

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

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

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

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

735 "Familial status" means one or more individuals who have not attained the age of 18 years being
736 domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii)

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

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

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

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

"Military status" means status as (i) a member of the Armed Forces of the United States, or a reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined in 10 U.S.C. § 101 or 32 U.S.C. § 101; (iii) a veteran who has served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable, as defined in § 2.2-2000.1; (iv) a spouse or child, as defined in 50 U.S.C. § 3911(4); or (v) an individual for whom the service member provided more than one-half of the individual's support for at least 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination pursuant to this chapter, as defined in 50 U.S.C. § 3911(4)(C).

"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

798 necessary to perfect or transfer the title. This exemption shall not apply to or inure to the benefit of any
799 licensee of the Real Estate Board or regulant of the Fair Housing Board, regardless of whether the
800 licensee is acting in his personal or professional capacity.

801 B. Except for subdivision A 3 of § 36-96.3, this chapter shall not apply to rooms or units in
802 dwellings containing living quarters occupied or intended to be occupied by no more than four families
803 living independently of each other, if the owner actually maintains and occupies one of such living
804 quarters as his residence.

805 C. Nothing in this chapter shall prohibit a religious organization, association or society, or any
806 nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a
807 religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings
808 that it owns or operates for other than a commercial purpose to persons of the same religion, or from
809 giving preferences to such persons, unless membership in such religion is restricted on account of race,
810 color, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military* status
811 as a ~~veteran~~, or disability. Nor shall anything in this chapter apply to a private membership club not in
812 fact open to the public, which as an incident to its primary purpose or purposes provides lodging that it
813 owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such
814 lodgings to its members or from giving preference to its members. Nor, where matters of personal
815 privacy are involved, shall anything in this chapter be construed to prohibit any private, state-owned, or
816 state-supported educational institution, hospital, nursing home, or religious or correctional institution
817 from requiring that persons of both sexes not occupy any single-family residence or room or unit of
818 dwellings or other buildings, or restrooms in such room or unit in dwellings or other buildings, which it
819 owns or operates.

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

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

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

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

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

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

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

854 **§ 36-96.3. Unlawful discriminatory housing practices.**

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

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

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

3. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation, or discrimination on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military status as a veteran*, or disability. The use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence of an illegal preference under this chapter 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

921 shall be deemed to satisfy the requirements of subdivision B 3.

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

925 **§ 36-96.4. Discrimination in residential real estate-related transactions; unlawful practices by**
926 **lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.**

927 A. It is unlawful for any person or other entity, including any lending institution, whose business
928 includes engaging in residential real estate-related transactions to discriminate against any person in
929 making available such a transaction, or in the terms or conditions of such a transaction, or in the manner
930 of providing such a transaction, because of race, color, religion, national origin, sex, elderliness, familial
931 status, sexual orientation, gender identity, *military* status as a ~~veteran~~, or disability. It is not unlawful,
932 however, for any person or other entity whose business includes engaging in residential real estate
933 transactions to require any applicant to qualify financially for the loan or loans for which such person is
934 making application.

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

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

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

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

956 **§ 36-96.6. Certain restrictive covenants void; instruments containing such covenants.**

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

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

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

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

976 **§ 55.1-1226. Security deposits.**

977 A. No landlord may demand or receive a security deposit, however denominated, in an amount or
978 value in excess of two months' periodic rent. *The landlord may not charge a tenant who is a member of*
979 *the Armed Forces of the United States or a member of the National Guard serving on full-time duty or*
980 *as a civil service technician with the National Guard a higher security deposit than the landlord*
981 *charges its other tenants.* Upon termination of the tenancy or the date the tenant vacates the dwelling
982 unit, whichever occurs last, such security deposit, whether it is property or money held by the landlord

as security as provided in this section, may be applied by the landlord solely to (i) the payment of accrued rent, including the reasonable charges for late payment of rent specified in the rental agreement; (ii) the payment of the amount of damages that the landlord has suffered by reason of the tenant's noncompliance with § 55.1-1227, less reasonable wear and tear; (iii) other damages or charges as provided in the rental agreement; or (iv) actual damages for breach of the rental agreement pursuant to § 55.1-1251. The security deposit and any deductions, damages, and charges shall be itemized by the landlord in a written notice given to the tenant, together with any amount due to the tenant, within 45 days after the termination date of the tenancy. As of the date of the termination of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last, the tenant shall be required to deliver possession of the dwelling unit to the landlord. If the termination date is prior to the expiration of the rental agreement or any renewal thereof, or the tenant has not given proper notice of termination of the rental agreement, the tenant shall be liable for actual damages pursuant to § 55.1-1251, in which case, the landlord shall give written notice of security deposit disposition within the 45-day period but may retain any security balance to apply against any financial obligations of the tenant to the landlord pursuant to this chapter or the rental agreement. If the tenant fails to vacate the dwelling unit as of the termination of the tenancy, the landlord may file an unlawful detainer action pursuant to § 8.01-126.

B. Where there is more than one tenant subject to a rental agreement, unless otherwise agreed to in writing by each of the tenants, disposition of the security deposit shall be made with one check being payable to all such tenants and sent to a forwarding address provided by one of the tenants. The landlord shall make the security deposit disposition within the 45-day time period required by subsection A, but if no forwarding address is provided to the landlord, the landlord may continue to hold such security deposit in escrow. If a tenant fails to provide a forwarding address to the landlord to enable the landlord to make a refund of the security deposit, upon the expiration of one year from the date of the end of the 45-day time period, the landlord may remit such sum to the State Treasurer as unclaimed property on a form prescribed by the administrator that includes the name; social security number, if known; and last known address of each tenant on the rental agreement. If the landlord or managing agent is a real estate licensee, compliance with this subsection shall be deemed compliance with § 54.1-2108 and corresponding regulations of the Real Estate Board.

C. Nothing in this section shall be construed by a court of law or otherwise as entitling the tenant, upon the termination of the tenancy, to an immediate credit against the tenant's delinquent rent account in the amount of the security deposit. The landlord shall apply the security deposit in accordance with this section within the 45-day time period required by subsection A. However, provided that the landlord has given prior written notice in accordance with this section, the landlord may withhold a reasonable portion of the security deposit to cover an amount of the balance due on the water, sewer, or other utility account that is an obligation of the tenant to a third-party provider under the rental agreement for the dwelling unit, and upon payment of such obligations the landlord shall provide written confirmation to the tenant within 10 days, along with payment to the tenant of any balance otherwise due to the tenant. In order to withhold such funds as part of the disposition of the security deposit, the landlord shall have so advised the tenant of his rights and obligations under this section in (i) a termination notice to the tenant in accordance with this chapter, (ii) a written notice to the tenant confirming the vacating date in accordance with this section, or (iii) a separate written notice to the tenant at least 15 days prior to the disposition of the security deposit. Any written notice to the tenant shall be given in accordance with § 55.1-1202.

The tenant may provide the landlord with written confirmation of the payment of the final water, sewer, or other utility bill for the dwelling unit, in which case the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period required by subsection A. If the tenant provides such written confirmation after the expiration of the 45-day period, the landlord shall refund any remaining balance of the security deposit held to the tenant within 10 days following the receipt of such written confirmation provided by the tenant. If the landlord otherwise receives confirmation of payment of the final water, sewer, or other utility bill for the dwelling unit, the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period.

D. Nothing in this section shall be construed to prohibit the landlord from making the disposition of the security deposit prior to the 45-day period required by subsection A and charging an administrative fee to the tenant for such expedited processing, if the rental agreement so provides and the tenant requests expedited processing in a separate written document.

E. The landlord shall notify the tenant in writing of any deductions provided by this section to be made from the tenant's security deposit during the course of the tenancy. Such notification shall be made within 30 days of the date of the determination of the deduction and shall itemize the reasons in the same manner as provided in subsection F. No such notification shall be required for deductions made less than 30 days prior to the termination of the rental agreement. If the landlord willfully fails to comply with this section, the court shall order the return of the security deposit to the tenant, together

with actual damages and reasonable attorney fees, unless the tenant owes rent to the landlord, in which case the court shall order an amount equal to the security deposit credited against the rent due to the landlord. In the event that damages to the premises exceed the amount of the security deposit and require the services of a third-party contractor, the landlord shall give written notice to the tenant advising him of that fact within the 45-day period required by subsection A. If notice is given as prescribed in this subsection, the landlord shall have an additional 15-day period to provide an itemization of the damages and the cost of repair. This section shall not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or transferred, is bound by this section and shall be required to return any security deposit received by the original landlord that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, regardless of any contractual agreements between the original landlord and his successors in interest.

F. The landlord shall:

1. Maintain and itemize records for each tenant of all deductions from security deposits provided for under this section that the landlord has made by reason of a tenant's noncompliance with § 55.1-1227, or for any other reason set out in this section, during the preceding two years; and

2. Permit a tenant or his authorized agent or attorney to inspect such tenant's records of deductions at any time during normal business hours.

G. Upon request by the landlord to a tenant to vacate, or within five days after receipt of notice by the landlord of the tenant's intent to vacate, the landlord shall provide written notice to the tenant of the tenant's right to be present at the landlord's inspection of the dwelling unit for the purpose of determining the amount of security deposit to be returned. If the tenant desires to be present when the landlord makes the inspection, he shall, in writing, so advise the landlord, who in turn shall notify the tenant of the date and time of the inspection, which must be made within 72 hours of delivery of possession. Following the move-out inspection, the landlord shall provide the tenant with a written security deposit disposition statement, including an itemized list of damages. If additional damages are discovered by the landlord after the security deposit disposition has been made, nothing in this section shall be construed to preclude the landlord from recovery of such damages against the tenant, provided, however, that the tenant may present into evidence a copy of the move-out report to support the tenant's position that such additional damages did not exist at the time of the move-out inspection.

H. If the tenant has any assignee or sublessee, the landlord shall be entitled to hold a security deposit from only one party in compliance with the provisions of this section.

I. The landlord may permit a tenant to provide damage insurance coverage in lieu of the payment of a security deposit. Such damage insurance in lieu of a security deposit shall conform to the following criteria:

1. The insurance company is licensed by the Virginia State Corporation Commission;

2. The insurance permits the payment of premiums on a monthly basis, unless the tenant selects a different payment schedule;

3. The coverage is effective upon the payment of the first premium and remains effective for the entire lease term;

4. The coverage provided per claim is no less than the amount the landlord requires for security deposits;

5. The insurance company agrees to approve or deny payment of a claim in accordance with regulations adopted by the State Corporation Commission's Bureau of Insurance; and

6. The insurance company shall notify the landlord within 10 days if the damage policy lapses or is canceled.

J. Each landlord may designate one or more damage insurance companies from which the landlord will accept damage insurance in lieu of a security deposit. Such insurers shall be identified in the written lease agreement.

K. A tenant who initially opts to provide damage insurance in lieu of a security deposit may, at any time without consent of the landlord, opt to pay the full security deposit to the landlord in lieu of maintaining a damage insurance policy. The landlord shall not alter the terms of the lease in the event a tenant opts to pay the full amount of the security deposit pursuant to this subsection.

§ 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 Armed Forces of the United States, or a reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined in 10 U.S.C. § 101 or 32 U.S.C. § 101; (iii) a veteran who has served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable, as defined in § 2.2-2000.1; (iv) a spouse or child, as defined in 50 U.S.C. § 3911(4); or (v) an individual for whom the service member provided more than one-half of the individual's support

1106 *for at least 180 days immediately preceding an alleged action that if proven true would constitute*
1107 *unlawful discrimination pursuant to this section, as defined in 50 U.S.C. § 3911(4)(C).*

1108 B. No landlord shall unreasonably refuse or restrict the sale or rental of a manufactured home located
1109 in his manufactured home park by a tenant. No landlord shall prohibit the manufactured home owner
1110 from placing a "for sale" sign on or in the owner's home except that the size, placement, and character
1111 of all signs are subject to the rules and regulations of the manufactured home park. Prior to selling or
1112 leasing the manufactured home, the tenant shall give notice to the landlord, including the name of the
1113 prospective vendee or lessee if the prospective vendee or lessee intends to occupy the manufactured
1114 home in that manufactured home park. The landlord shall have the burden of proving that his refusal or
1115 restriction regarding the sale or rental of a manufactured home was reasonable. The refusal or restriction
1116 of the sale or rental of a manufactured home exclusively or predominantly based on the age of the home
1117 shall be considered unreasonable. Any refusal or restriction based on race, color, religion, national
1118 origin, *military status as a veteran*, familial status, marital status, elderliness, disability, sexual
1119 orientation, gender identity, sex, or pregnancy, childbirth or related medical conditions shall be
1120 conclusively presumed to be unreasonable.