

SUBCOMMITTEE:

1 HOUSE BILL NO. 2161
2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
3 (Proposed by the House Committee on General Laws
4 on January 28, 2021)
5 (Patron Prior to Substitute--Delegate Tran)

6 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,
7 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
8 through 36-96.3, 36-96.4, 36-96.6, 55.1-1208, and 55.1-1310 of the Code of Virginia, relating to
9 public accommodations, employment, and housing; prohibited discrimination on the basis of status
10 as active military or a military spouse.

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

12 **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,**
13 **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,**
14 **36-96.6, 55.1-1208, and 55.1-1310 of the Code of Virginia are amended and reenacted as follows:**

15 **§ 2.2-2901.1. Employment discrimination prohibited.**

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

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

18 "Military status" means status as (i) a member of the Armed Forces of the United States, or a
19 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined
20 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
21 service and who was discharged or released therefrom under conditions other than dishonorable, as
22 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
23 whom the service member provided more than one-half of the individual's support for at least 180 days
24 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
25 under this section, as defined in 50 U.S.C. § 3911(4)(C).

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

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

33 **§ 2.2-3004. Grievances qualifying for a grievance hearing; grievance hearing generally.**

34 A. A grievance qualifying for a hearing shall involve a complaint or dispute by an employee
35 relating to the following adverse employment actions in which the employee is personally involved,
36 including (i) formal disciplinary actions, including suspensions, demotions, transfers and assignments,
37 and dismissals resulting from formal discipline or unsatisfactory job performance; (ii) the application of
38 all written personnel policies, procedures, rules and regulations where it can be shown that policy was
39 misapplied or unfairly applied; (iii) discrimination on the basis of race, color, religion, political affiliation,
40 age, disability, national origin, sex, pregnancy, childbirth or related medical conditions, marital status,
41 sexual orientation, gender identity, or military status ~~as a veteran~~; (iv) arbitrary or capricious performance
42 evaluations; (v) acts of retaliation as the result of the use of or participation in the grievance procedure or
43 because the employee has complied with any law of the United States or of the Commonwealth, has
44 reported any violation of such law to a governmental authority, has sought any change in law before the
45 Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or
46 gross mismanagement; and (vi) retaliation for exercising any right otherwise protected by law.

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

51 C. Complaints relating solely to the following issues shall not proceed to a hearing: (i)
52 establishment and revision of wages, salaries, position classifications, or general benefits; (ii) work

53 activity accepted by the employee as a condition of employment or which may reasonably be expected to
54 be a part of the job content; (iii) contents of ordinances, statutes or established personnel policies,
55 procedures, and rules and regulations; (iv) methods, means, and personnel by which work activities are to
56 be carried on; (v) termination, layoff, demotion, or suspension from duties because of lack of work,
57 reduction in work force, or job abolition; (vi) hiring, promotion, transfer, assignment, and retention of
58 employees within the agency; and (vii) relief of employees from duties of the agency in emergencies.

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

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

72 **§ 2.2-3900. Short title; declaration of policy.**

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

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

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

- 79 2. Safeguard all individuals within the Commonwealth from unlawful discrimination in
80 employment because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical
81 conditions, age, marital status, sexual orientation, gender identity, disability, or military status ~~as a veteran~~;
- 82 3. Preserve the public safety, health, and general welfare;
- 83 4. Further the interests, rights, and privileges of individuals within the Commonwealth; and
- 84 5. Protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

85 **§ 2.2-3901. Definitions.**

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

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

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

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

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

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

105 "Military status" means status as (i) a member of the Armed Forces of the United States, or a
106 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined
107 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
108 service and who was discharged or released therefrom under conditions other than dishonorable, as
109 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
110 whom the service member provided more than one-half of the individual's support for at least 180 days
111 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
112 under this section, as defined in 50 U.S.C. § 3911(4)(C).

113 **§ 2.2-3902. Construction of chapter; other programs to aid persons with disabilities, minors,**
114 **and the elderly.**

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

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

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

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

128 Complaints filed with the Division of Human Rights of the Department of Law (the Division) in
129 accordance with § 2.2-520 alleging unlawful discriminatory practice under a Virginia statute that is
130 enforced by a Virginia agency shall be referred to that agency. The Division may investigate complaints
131 alleging an unlawful discriminatory practice under a federal statute or regulation and attempt to resolve it

132 through conciliation. Unsolved complaints shall thereafter be referred to the federal agency with
133 jurisdiction over the complaint. Upon such referral, the Division shall have no further jurisdiction over
134 the complaint. The Division shall have no jurisdiction over any complaint filed under a local ordinance
135 adopted pursuant to § 15.2-965.

136 **§ 2.2-3904. Nondiscrimination in places of public accommodation; definitions.**

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

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

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

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

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

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

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

159 § 2.2-3905. Nondiscrimination in employment; definitions; exceptions.

160 A. As used in this section:

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

162 "Employee" means an individual employed by an employer.

163 "Employer" means a person employing 15 or more employees for each working day in each of 20
164 or more calendar weeks in the current or preceding calendar year, and any agent of such a person.

165 However, (i) for purposes of unlawful discharge under subdivision B 1 on the basis of race, color, religion,

166 national origin, military status ~~as a veteran~~, sex, sexual orientation, gender identity, marital status,
167 pregnancy, or childbirth or related medical conditions including lactation, "employer" means any

168 employer employing more than five persons and (ii) for purposes of unlawful discharge under subdivision

169 B 1 on the basis of age, "employer" means any employer employing more than five but fewer than 20
170 persons.

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

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

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

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

182 B. It is an unlawful employment practice for:

183 1. An employer to:

184 a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to
185 such individual's compensation, terms, conditions, or privileges of employment because of such

186 individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy,
187 childbirth or related medical conditions including lactation, age, military status-as-a-veteran, or national
188 origin; or

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

194 2. An employment agency to:

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

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

201 3. A labor organization to:

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

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

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

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

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

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

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

232 8. An employer, labor organization, employment agency, or joint apprenticeship committee
233 controlling an apprenticeship or other training program to print or publish, or cause to be printed or
234 published, any notice or advertisement relating to (i) employment by such an employer, (ii) membership
235 in or any classification or referral for employment by such a labor organization, (iii) any classification or
236 referral for employment by such an employment agency, or (iv) admission to, or employment in, any
237 program established to provide apprenticeship or other training by such a joint apprenticeship committee
238 that indicates any preference, limitation, specification, or discrimination based on race, color, religion,
239 sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions,

240 age, military status as a veteran, or national origin, except that such a notice or advertisement may indicate
241 a preference, limitation, specification, or discrimination based on religion, sex, age, or national origin
242 when religion, sex, age, or national origin is a bona fide occupational qualification for employment.

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

244 1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or
245 refer for employment, any individual; (iii) a labor organization to classify its membership or to classify or
246 refer for employment any individual; or (iv) an employer, labor organization, or joint apprenticeship
247 committee to admit or employ any individual in any apprenticeship or other training program on the basis
248 of such individual's religion, sex, or age in those certain instances where religion, sex, or age is a bona
249 fide occupational qualification reasonably necessary to the normal operation of that particular employer,
250 employment agency, labor organization, or joint apprenticeship committee;

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

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

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

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

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

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

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

288 **§ 15.2-853. Commission on human rights; human rights ordinance.**

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

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

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

302 "Military status" means status as (i) a member of the Armed Forces of the United States, or a

303 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined

304 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

305 service and who was discharged or released therefrom under conditions other than dishonorable, as

306 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

307 whom the service member provided more than one-half of the individual's support for at least 180 days

308 immediately preceding an alleged action that if proven true would constitute unlawful discrimination

309 under this section, as defined in 50 U.S.C. § 3911(4)(C).

310 "Person" means one or more individuals, labor unions, partnerships, corporations, associations,

311 legal representatives, mutual companies, joint-stock companies, trusts, or unincorporated organizations.

312 **§ 15.2-854. Investigations.**

313 Whenever the commission on human rights has a reasonable cause to believe that any person has

314 engaged in, or is engaging in, any violation of a county ordinance that prohibits discrimination due to race,

315 color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, military status as

316 a veteran, age, marital status, sexual orientation, gender identity, or disability, and, after making a good

317 faith effort to obtain the data, information, and attendance of witnesses necessary to determine whether

318 such violation has occurred, is unable to obtain such data, information, or attendance, it may request the

319 county attorney to petition the judge of the general district court for its jurisdiction for a subpoena against

320 any such person refusing to produce such data and information or refusing to appear as a witness, and the

321 judge of such court may, upon good cause shown, cause the subpoena to be issued. Any witness subpoena
322 issued under this section shall include a statement that any statements made will be under oath and that
323 the respondent or other witness is entitled to be represented by an attorney. Any person failing to comply
324 with a subpoena issued under this section shall be subject to punishment for contempt by the court issuing
325 the subpoena. Any person so subpoenaed may apply to the judge who issued a subpoena to quash it.

326 **§ 15.2-965. Human rights ordinances and commissions.**

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

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

334 C. As used in this section:

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

337 "Military status" means status as (i) a member of the Armed Forces of the United States, or a
338 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined
339 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
340 service and who was discharged or released therefrom under conditions other than dishonorable, as
341 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
342 whom the service member provided more than one-half of the individual's support for at least 180 days
343 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
344 under this section, as defined in 50 U.S.C. § 3911(4)(C).

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

347 **§ 15.2-1500.1. Employment discrimination prohibited; sexual orientation or gender identity.**

348 A. As used in this section, "age" article, unless the context requires a different meaning:
349 "Age" means being an individual who is at least 40 years of age.
350 "Military status" means status as (i) a member of the Armed Forces of the United States, or a
351 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined
352 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
353 service and who was discharged or released therefrom under conditions other than dishonorable, as
354 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
355 whom the service member provided more than one-half of the individual's support for at least 180 days
356 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
357 under this section, as defined in 50 U.S.C. § 3911(4)(C).

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

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

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

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

373 Each grievance procedure, and each amendment thereto, in order to comply with this section, shall
374 be certified in writing to be in compliance by the city, town, or county attorney, and the chief

375 administrative officer of the locality, and such certification filed with the clerk of the circuit court having
376 jurisdiction in the locality in which the procedure is to apply. Local government grievance procedures in
377 effect as of July 1, 1991, shall remain in full force and effect for 90 days thereafter, unless certified and
378 filed as provided above within a shorter time period.

379 Each grievance procedure shall include the following components and features:

380 1. Definition of grievance. A grievance shall be a complaint or dispute by an employee relating to
381 his employment, including (i) disciplinary actions, including dismissals, disciplinary demotions, and
382 suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or
383 unsatisfactory job performance; (ii) the application of personnel policies, procedures, rules, and
384 regulations, including the application of policies involving matters referred to in clause (iii) of subdivision
385 2; (iii) discrimination on the basis of race, color, creed, religion, political affiliation, age, disability,
386 national origin, sex, marital status, pregnancy, childbirth or related medical conditions, sexual orientation,
387 gender identity, or military status ~~as a veteran~~; and (iv) acts of retaliation as the result of the use of or
388 participation in the grievance procedure or because the employee has complied with any law of the United
389 States or of the Commonwealth, has reported any violation of such law to a governmental authority, has
390 sought any change in law before the Congress of the United States or the General Assembly, or has
391 reported an incidence of fraud, abuse, or gross mismanagement. For the purposes of clause (iv), there shall
392 be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of
393 the grievance shall be an act of retaliation.

394 2. Local government responsibilities. Local governments shall retain the exclusive right to manage
395 the affairs and operations of government. Accordingly, the following complaints are nongrievable: (i)
396 establishment and revision of wages or salaries, position classification, or general benefits; (ii) work
397 activity accepted by the employee as a condition of employment or work activity that may reasonably be
398 expected to be a part of the job content; (iii) the contents of ordinances, statutes, or established personnel
399 policies, procedures, rules, and regulations; (iv) failure to promote except where the employee can show
400 that established promotional policies or procedures were not followed or applied fairly; (v) the methods,
401 means, and personnel by which work activities are to be carried on; (vi) except where such action affects

402 an employee who has been reinstated within the previous six months as the result of the final determination
403 of a grievance, termination, layoff, demotion, or suspension from duties because of lack of work, reduction
404 in work force, or job abolition; (vii) the hiring, promotion, transfer, assignment, and retention of
405 employees within the local government; and (viii) the relief of employees from duties of the local
406 government in emergencies. In any grievance brought under the exception to clause (vi), the action shall
407 be upheld upon a showing by the local government that (a) there was a valid business reason for the action
408 and (b) the employee was notified of the reason in writing prior to the effective date of the action.

409 3. Coverage of personnel.

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

412 (1) Appointees of elected groups or individuals;

413 (2) Officials and employees who by charter or other law serve at the will or pleasure of an
414 appointing authority;

415 (3) Deputies and executive assistants to the chief administrative officer of a locality;

416 (4) Agency heads or chief executive officers of government operations;

417 (5) Employees whose terms of employment are limited by law;

418 (6) Temporary, limited term, and seasonal employees;

419 (7) Law-enforcement officers as defined in Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 whose
420 grievance is subject to the provisions of Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 and who have elected to
421 proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing
422 to proceed pursuant to any other existing procedure in the resolution of his grievance.

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

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

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

440 5. General requirements for procedures.

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

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

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

449 6. Time periods.

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

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

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

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

457 7. Compliance.

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

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

469 8. Management steps.

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

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

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

481 9. Qualification for panel or administrative hearing.

482 a. Decisions regarding grievability and access to the procedure shall be made by the chief
483 administrative officer of the local government, or his designee, at any time prior to the panel hearing, at
484 the request of the local government or grievant, within 10 calendar days of the request. No city, town, or
485 county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of
486 grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative officer
487 of the local government, or his designee, may be appealed to the circuit court having jurisdiction in the
488 locality in which the grievant is employed for a hearing on the issue of whether the grievance qualifies for
489 a panel hearing. Proceedings for review of the decision of the chief administrative officer or his designee
490 shall be instituted by the grievant by filing a notice of appeal with the chief administrative officer within
491 10 calendar days from the date of receipt of the decision and giving a copy thereof to all other parties.
492 Within 10 calendar days thereafter, the chief administrative officer or his designee shall transmit to the
493 clerk of the court to which the appeal is taken: a copy of the decision of the chief administrative officer, a
494 copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the court shall also be
495 furnished to the grievant. The failure of the chief administrative officer or his designee to transmit the
496 record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ
497 of certiorari requiring the chief administrative officer to transmit the record on or before a certain date.

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

505 10. Final hearings.

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

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

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

528 (3) When a local government elects to use an administrative hearing officer rather than a three-
529 person panel for the final step in the grievance procedure, the administrative hearing officer shall be
530 appointed by the Executive Secretary of the Supreme Court of Virginia. The appointment shall be made
531 from the list of administrative hearing officers maintained by the Executive Secretary pursuant to § 2.2-
532 4024 and shall be made from the appropriate geographical region on a rotating basis. In the alternative,
533 the local government may request the appointment of an administrative hearing officer from the

534 Department of Human Resource Management. If a local government elects to use an administrative
535 hearing officer, it shall bear the expense of such officer's services.

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

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

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

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

550 b. Rules for panel and administrative hearings.

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

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

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

559 (3) That the local government provide the panel or hearing officer with copies of the grievance
560 record prior to the hearing, and provide the grievant with a list of the documents furnished to the panel or

561 hearing officer, and the grievant and his attorney, at least 10 days prior to the scheduled hearing, shall be
562 allowed access to and copies of all relevant files intended to be used in the grievance proceeding;

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

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

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

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

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

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

577 11. Implementation of final hearing decisions.

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

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

585 **§ 15.2-1604. Appointment of deputies and employment of employees; discriminatory**
586 **practices by certain officers; civil penalty.**

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

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

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

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

603 C. With regard to notices and advertisements:

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

613 2. No constitutional officer shall print or publish or cause to be printed or published any notice or
614 advertisement relating to employment by such constitutional officer indicating any preference, limitation,

615 specification, or discrimination, based on sex or national origin, except that such notice or advertisement
616 may indicate a preference, limitation, specification, or discrimination based on sex or age when sex or age
617 is a bona fide occupational qualification for employment.

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

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

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

631 **§ 22.1-295.2. Employment discrimination prohibited.**

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

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

634 "Military status" means status as (i) a member of the Armed Forces of the United States, or a
635 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined
636 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
637 service and who was discharged or released therefrom under conditions other than dishonorable, as
638 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
639 whom the service member provided more than one-half of the individual's support for at least 180 days
640 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
641 under this section, as defined in 50 U.S.C. § 3911(4)(C).

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

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

648 **§ 22.1-306. Definitions.**

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

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

651 "Day" means calendar days unless a different meaning is clearly expressed in this article.

652 Whenever the last day for performing an act required by this article falls on a Saturday, Sunday, or legal
653 holiday, the act may be performed on the next day that is not a Saturday, Sunday, or legal holiday.

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

655 "Grievance" means a complaint or dispute by a teacher relating to his employment, including (i)
656 disciplinary action including dismissal; (ii) the application or interpretation of (a) personnel policies, (b)
657 procedures, (c) rules and regulations, (d) ordinances, and (e) statutes; (iii) acts of reprisal against a teacher
658 for filing or processing a grievance, participating as a witness in any step, meeting, or hearing relating to
659 a grievance, or serving as a member of a fact-finding panel; and (iv) complaints of discrimination on the
660 basis of race, color, creed, religion, political affiliation, disability, age, national origin, sex, pregnancy,
661 childbirth or related medical conditions, marital status, sexual orientation, gender identity, or military
662 status ~~as a veteran~~. Each school board shall have the exclusive right to manage the affairs and operations
663 of the school division. Accordingly, the term "grievance" shall not include a complaint or dispute by a
664 teacher relating to ~~(1)~~ (a) establishment and revision of wages or salaries, position classifications, or
665 general benefits; ~~(2)~~ (b) suspension of a teacher or nonrenewal of the contract of a teacher who has not
666 achieved continuing contract status; ~~(3)~~ (c) the establishment or contents of ordinances, statutes, or
667 personnel policies, procedures, rules, and regulations; ~~(4)~~ (d) failure to promote; ~~(5)~~ (e) discharge, layoff,
668 or suspension from duties because of decrease in enrollment, decrease in enrollment or abolition of a

669 particular subject, or insufficient funding; ~~(6)~~ (f) hiring, transfer, assignment, and retention of teachers
670 within the school division; ~~(7)~~ (g) suspension from duties in emergencies; ~~(8)~~ (h) the methods, means, and
671 personnel by which the school division's operations are to be carried on; or ~~(9)~~ (i) coaching or
672 extracurricular activity sponsorship.

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

675 "Military status" means status as (i) a member of the Armed Forces of the United States, or a
676 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined
677 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
678 service and who was discharged or released therefrom under conditions other than dishonorable, as
679 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
680 whom the service member provided more than one-half of the individual's support for at least 180 days
681 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
682 under this section, as defined in 50 U.S.C. § 3911(4)(C).

683 **§ 36-96.1. Declaration of policy.**

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

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

693 **§ 36-96.1:1. Definitions.**

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

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

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

708 "Complainant" means a person, including the Fair Housing Board, who files a complaint under §
709 36-96.9.

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

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

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

720 "Discriminatory housing practices" means an act that is unlawful under § 36-96.3, 36-96.4, 36-
721 96.5, or 36-96.6.

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

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

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

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

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

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

738 "Military status" means status as (i) a member of the Armed Forces of the United States, or a
739 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined
740 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
741 service and who was discharged or released therefrom under conditions other than dishonorable, as
742 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
743 whom the service member provided more than one-half of the individual's support for at least 180 days
744 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
745 under this section, as defined in 50 U.S.C. § 3911(4)(C).

746 "Person" means one or more individuals, whether male or female, corporations, partnerships,
747 associations, labor organizations, fair housing organizations, civil rights organizations, organizations,

748 governmental entities, legal representatives, mutual companies, joint stock companies, trusts,
749 unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

750 "Physical or mental impairment" includes any of the following: (i) any physiological disorder or
751 condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body
752 systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs;
753 cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii)
754 any mental or psychological disorder, such as an intellectual or developmental disability, organic brain
755 syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment"
756 includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral
757 palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human
758 immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug
759 addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.

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

763 "Restrictive covenant" means any specification in any instrument affecting title to real property
764 that purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color,
765 religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military status
766 ~~as a veteran~~, or disability.

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

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

772 **§ 36-96.2. Exemptions.**

773 A. Except as provided in subdivision A 3 of § 36-96.3 and subsections A, B, and C of § 36-96.6,
774 this chapter shall not apply to any single-family house sold or rented by an owner, provided that such

775 private individual does not own more than three single-family houses at any one time. In the case of the
776 sale of any single-family house by a private individual-owner not residing in the house at the time of the
777 sale or who was not the most recent resident of the house prior to sale, the exemption granted shall apply
778 only with respect to one such sale within any 24-month period, provided that such bona fide private
779 individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any
780 express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or
781 rental of, more than three such single-family houses at any one time. The sale or rental of any such single-
782 family house shall be exempt from the application of this chapter only if the house is sold or rented (i)
783 without the use in any manner of the sales or rental facilities or the sales or rental services of any real
784 estate broker, agent, salesperson, or of the facilities or the services of any person in the business of selling
785 or renting dwellings, or of any employee, independent contractor, or agent of any broker, agent,
786 salesperson, or person and (ii) without the publication, posting, or mailing, after notice, of any
787 advertisement or written notice in violation of this chapter. However, nothing herein shall prohibit the use
788 of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to
789 perfect or transfer the title. This exemption shall not apply to or inure to the benefit of any licensee of the
790 Real Estate Board or regulant of the Fair Housing Board, regardless of whether the licensee is acting in
791 his personal or professional capacity.

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

796 C. Nothing in this chapter shall prohibit a religious organization, association or society, or any
797 nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a
798 religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings
799 that it owns or operates for other than a commercial purpose to persons of the same religion, or from
800 giving preferences to such persons, unless membership in such religion is restricted on account of race,
801 color, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military status

802 as a veteran, or disability. Nor shall anything in this chapter apply to a private membership club not in fact
803 open to the public, which as an incident to its primary purpose or purposes provides lodging that it owns
804 or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings
805 to its members or from giving preference to its members. Nor, where matters of personal privacy are
806 involved, shall anything in this chapter be construed to prohibit any private, state-owned, or state-
807 supported educational institution, hospital, nursing home, or religious or correctional institution from
808 requiring that persons of both sexes not occupy any single-family residence or room or unit of dwellings
809 or other buildings, or restrooms in such room or unit in dwellings or other buildings, which it owns or
810 operates.

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

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

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

824 G. Nothing in this chapter limits the applicability of any reasonable local, state or federal restriction
825 regarding the maximum number of occupants permitted to occupy a dwelling. Owners or managing agents
826 of dwellings may develop and implement reasonable occupancy and safety standards based on factors
827 such as the number and size of sleeping areas or bedrooms and overall size of a dwelling unit so long as
828 the standards do not violate local, state or federal restrictions. Nothing in this chapter prohibits the rental

829 application or similar document from requiring information concerning the number, ages, sex and familial
830 relationship of the applicants and the dwelling's intended occupants.

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

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

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

845 **§ 36-96.3. Unlawful discriminatory housing practices.**

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

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

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

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

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

867 5. Deny any person access to membership in or participation in any multiple listing service, real
868 estate brokers' organization, or other service, organization, or facility relating to the business of selling or
869 renting dwellings or discriminate against such person in the terms or conditions of such access,
870 membership, or participation because of race, color, religion, national origin, sex, elderliness, familial
871 status, source of funds, sexual orientation, gender identity, military status ~~as a veteran~~, or disability;

872 6. Include in any transfer, sale, rental, or lease of housing any restrictive covenant that
873 discriminates because of race, color, religion, national origin, sex, elderliness, familial status, source of
874 funds, sexual orientation, gender identity, military status ~~as a veteran~~, or disability or for any person to
875 honor or exercise, or attempt to honor or exercise, any such discriminatory covenant pertaining to housing;

876 7. Induce or attempt to induce to sell or rent any dwelling by representations regarding the entry
877 or prospective entry into the neighborhood of a person or persons of a particular race, color, religion,
878 national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity,
879 military status ~~as a veteran~~, or disability;

880 8. Refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise discriminate
881 or make unavailable or deny a dwelling because of a disability of (i) the buyer or renter; (ii) a person

882 residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (iii) any
883 person associated with the buyer or renter; or

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

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

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

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

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

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

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

916 **§ 36-96.4. Discrimination in residential real estate-related transactions; unlawful practices**
917 **by lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.**

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

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

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

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

934 C. It shall be unlawful for any state, county, city, or municipal treasurer or governmental official
935 whose responsibility it is to account for, to invest, or manage public funds to deposit or cause to be

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

946 **§ 36-96.6. Certain restrictive covenants void; instruments containing such covenants.**

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

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

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

961 D. A family care home, foster home, or group home in which individuals with physical disabilities,
962 mental illness, intellectual disability, or developmental disability reside, with one or more resident

963 counselors or other staff persons, shall be considered for all purposes residential occupancy by a single
964 family when construing any restrictive covenant which purports to restrict occupancy or ownership of real
965 or leasehold property to members of a single family or to residential use or structure.

966 **§ 55.1-1208. Prohibited provisions in rental agreements.**

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

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

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

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

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

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

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

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

982 8. Agrees to waive or forgo rights or remedies under the Servicemembers Civil Relief Act, 50
983 U.S.C. § 3901 et seq.

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

987 **§ 55.1-1310. Sale or lease of manufactured home by manufactured home owner.**

988 A. For purposes of this section:

989 "Military status" means status as (i) a member of the Armed Forces of the United States, or a
990 reserve component thereof, as defined in 10 U.S.C. § 101; (ii) a member of the National Guard, as defined
991 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
992 service and who was discharged or released therefrom under conditions other than dishonorable, as
993 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
994 whom the service member provided more than one-half of the individual's support for at least 180 days
995 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
996 under this section, as defined in 50 U.S.C. § 3911(4)(C).

997 B. No landlord shall unreasonably refuse or restrict the sale or rental of a manufactured home
998 located in his manufactured home park by a tenant. No landlord shall prohibit the manufactured home
999 owner from placing a "for sale" sign on or in the owner's home except that the size, placement, and
1000 character of all signs are subject to the rules and regulations of the manufactured home park. Prior to
1001 selling or leasing the manufactured home, the tenant shall give notice to the landlord, including the name
1002 of the prospective vendee or lessee if the prospective vendee or lessee intends to occupy the manufactured
1003 home in that manufactured home park. The landlord shall have the burden of proving that his refusal or
1004 restriction regarding the sale or rental of a manufactured home was reasonable. The refusal or restriction
1005 of the sale or rental of a manufactured home exclusively or predominantly based on the age of the home
1006 shall be considered unreasonable. Any refusal or restriction based on race, color, religion, national origin,
1007 military status as a veteran, familial status, marital status, elderliness, disability, sexual orientation, gender
1008 identity, sex, or pregnancy, childbirth or related medical conditions shall be conclusively presumed to be
1009 unreasonable.

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