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HOUSE BILL NO. 1097

Offered January 12, 2022

Prefiled January 12, 2022

A *BILL to amend and reenact § 36-96.2 of the Code of Virginia, relating to Fair Housing Law; exemptions; tenant's source of funds.*

Patron—Brewer

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:**1. That § 36-96.2 of the Code of Virginia is amended and reenacted as follows:****§ 36-96.2. Exemptions.**

A. Except as provided in subdivision A 3 of § 36-96.3 and subsections A, B, and C of § 36-96.6, this chapter shall not apply to any single-family house sold or rented by an owner, provided that such private individual does not own more than three single-family houses at any one time. In the case of the sale of any single-family house by a private individual-owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to sale, the exemption granted shall apply only with respect to one such sale within any 24-month period, provided that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempt from the application of this chapter only if the house is sold or rented (i) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of the facilities or the services of any person in the business of selling or renting dwellings, or of any employee, independent contractor, or agent of any broker, agent, salesperson, or person and (ii) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this chapter. However, nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title. This exemption shall not apply to or inure to the benefit of any licensee of the Real Estate Board or regulant of the Fair Housing Board, regardless of whether the licensee is acting in his personal or professional capacity.

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

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

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

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

F. A rental application may require disclosure by the applicant of any criminal convictions and the owner or managing agent may require as a condition of acceptance of the rental application that applicant consent in writing to a criminal record check to verify the disclosures made by applicant in the

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59 rental application. The owner or managing agent may collect from the applicant moneys to reimburse
60 the owner or managing agent for the exact amount of the out-of-pocket costs for such criminal record
61 checks. Nothing in this chapter shall require an owner or managing agent to rent a dwelling to an
62 individual who, based on a prior record of criminal convictions involving harm to persons or property,
63 would constitute a clear and present threat to the health or safety of other individuals.

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

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

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

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