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HOUSE BILL NO. 277

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns
on February 4, 2022)

(Patron Prior to Substitute—Delegate Coyner)

A BILL to amend and reenact §§ 15.2-2291, 37.2-431.1, and 55.1-1201 of the Code of Virginia, relating to certified recovery residences.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2291, 37.2-431.1, and 55.1-1201 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2291. Assisted living facilities and group homes of eight or fewer; single-family residence.

A. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident or nonresident staff persons, as residential occupancy by a single family. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in § 54.1-3401. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or other residential facility for which the Department of Behavioral Health and Developmental Services is the licensing authority pursuant to this Code.

B. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any assisted living facility or residential facility in which aged, infirm or disabled persons reside with one or more resident counselors or other staff persons and for which the Department of Social Services is the licensing authority pursuant to this Code.

C. Zoning ordinances for all purposes shall consider a certified recovery residence, as defined in § 37.2-431.1, in which individuals with substance abuse disorder reside, either with or without one or more resident or nonresident staff persons, and in which a certifying entity verifies 50 square feet per bed per sleeping room as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such certified recovery residence.

§ 37.2-431.1. Certified recovery residences.

A. As used in this section:

"Certified recovery residence" means a recovery residence that has been certified by the Department.
"Credentialing entity" means a nonprofit organization that develops and administers professional certification programs according to nationally recognized recovery housing standards of the National Alliance for Recovery Residences or standards endorsed by Oxford House, Inc.

"Level of support" means the level of support and structure that a certified recovery residence provides to residents, as specified in the standards of the National Alliance for Recovery Residences.

"Recovery residence" means a housing facility that provides alcohol-free and illicit-drug-free housing to individuals with substance abuse disorders and individuals with co-occurring mental illnesses and substance abuse disorders that does not include clinical treatment services.

B. Every recovery residence shall disclose to each prospective resident whether the recovery residence is a certified recovery residence and, if so, the credentialing entity. If the credentialing entity is the National Alliance for Recovery Residences, the recovery residence shall disclose the level of support provided by the recovery residence. If the credentialing entity is Oxford House, Inc., the recovery residence shall disclose that the recovery residence is self-governed and unstaffed.

C. No person shall advertise, represent, or otherwise imply to the public that a recovery residence or other housing facility is a certified recovery residence unless such recovery residence or other housing facility has been certified by the Department in accordance with regulations adopted by the Board. Such regulations may require accreditation by or membership in a credentialing agency as a condition of certification.

D. All recovery residences housing individuals diagnosed with substance use disorder shall be certified by the Department in accordance with regulations adopted by the Board.

E. The Department shall maintain a list of certified recovery residences on its website and shall provide (i) for each certified recovery residence included on such list, the credentialing entity; (ii) for

60 *certified recovery residences for which the National Alliance of Recovery Residences is the credentialing*
61 *entity, the level of support provided by the recovery residence; and (iii) for certified recovery residences*
62 *for which Oxford House, Inc. is the credentialing entity, a disclosure that the recovery residence is*
63 *self-governed and unstaffed.*

64 D. F. The Department may institute civil proceedings in the name of the Commonwealth to enjoin
65 any person from violating the provisions of this section and to recover a civil penalty of at least \$200
66 but no more than \$1,000 for each violation. Such proceedings shall be brought in the general district or
67 circuit court for the county or city in which the violation occurred or where the defendant resides. Civil
68 penalties assessed under this section shall be paid into the Behavioral Health and Developmental
69 Services Trust Fund established in § 37.2-318.

70 **§ 55.1-1201. Applicability of chapter; local authority.**

71 A. This chapter shall apply to all jurisdictions in the Commonwealth and may not be waived or
72 otherwise modified, in whole or in part, by the governing body of any locality or its boards or
73 commissions or other instrumentalities or by the courts of the Commonwealth. Occupancy in a public
74 housing unit or other housing unit that is a dwelling unit is subject to this chapter; however, if the
75 provisions of this chapter are inconsistent with the regulations of the U.S. Department of Housing and
76 Urban Development, such regulations shall control.

77 B. The provisions of this chapter shall apply to occupancy in all single-family and multifamily
78 dwelling units and multifamily dwelling units located in the Commonwealth.

79 C. The following tenancies and occupancies are not residential tenancies under this chapter:

80 1. Residence at a public or private institution, if incidental to detention or the provision of medical,
81 geriatric, educational, counseling, religious, or similar services;

82 2. Occupancy by a member of a fraternal or social organization in the portion of a structure operated
83 for the benefit of the organization;

84 3. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

85 4. Occupancy in a campground as defined in § 35.1-1;

86 5. Occupancy by a tenant who pays no rent pursuant to a rental agreement;

87 6. Occupancy by an employee of a landlord whose right to occupancy in a multifamily dwelling unit
88 is conditioned upon employment in and about the premises or a former employee whose occupancy
89 continues less than 60 days; or

90 7. Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the
91 occupant is the purchaser or a person who succeeds to his interest; or

92 8. *Occupancy in a certified recovery residence as defined in § 37.2-431.1.*

93 D. The following provisions apply to occupancy in a hotel, motel, extended stay facility, etc.:

94 1. A guest who is an occupant of a hotel, motel, extended stay facility, vacation residential facility,
95 including those governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.),
96 boardinghouse, or similar transient lodging shall not be construed to be a tenant living in a dwelling unit
97 if such person does not reside in such lodging as his primary residence. Such guest shall be exempt
98 from this chapter, and the innkeeper or property owner, or his agent, shall have the right to use self-help
99 eviction under Virginia law, without the necessity of the filing of an unlawful detainer action in a court
100 of competent jurisdiction and the execution of a writ of eviction issued pursuant to such action, which
101 would otherwise be required under this chapter.

102 2. A hotel, motel, extended stay facility, vacation residential facility, including those governed by the
103 Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or similar transient lodging
104 shall be exempt from the provisions of this chapter if overnight sleeping accommodations are furnished
105 to a person for consideration if such person does not reside in such lodging as his primary residence.

106 3. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including
107 those governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or
108 similar transient lodging as his primary residence for 90 consecutive days or less, such lodging shall not
109 be subject to the provisions of this chapter. However, the owner of such lodging establishment shall give
110 a five-day written notice of nonpayment to a person residing in such lodging and, upon the expiration of
111 the five-day period specified in the notice, may exercise self-help eviction if payment in full has not
112 been received.

113 4. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including
114 those governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or
115 similar transient lodging as his primary residence for more than 90 consecutive days or is subject to a
116 written lease for more than 90 days, such lodging shall be subject to the provisions of this chapter.

117 5. Nothing herein shall be construed to preclude the owner of a lodging establishment that uses
118 self-help eviction pursuant to this section from pursuing any civil or criminal remedies under the laws of
119 the Commonwealth.

120 E. Nothing in this chapter shall prohibit a locality from establishing a commission, reconciliatory in
121 nature only, or designating an existing agency, which upon mutual agreement of the parties may mediate

- 122** conflicts that may arise out of the application of this chapter, nor shall anything in this chapter be
123 deemed to prohibit an ordinance designed to effect compliance with local property maintenance codes.
124 This chapter shall supersede all other local ordinances or regulations concerning landlord and tenant
125 relations and the leasing of residential property.