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HOUSE BILL NO. 586**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws
on February 3, 2022)

(Patron Prior to Substitute—Delegate VanValkenburg)

*A BILL to amend and reenact §§ 36-96.1:1, 36-96.3:1, and 59.1-200 of the Code of Virginia, relating to Virginia Fair Housing Law; use of assistance animal in a dwelling; penalties.***Be it enacted by the General Assembly of Virginia:****1. That §§ 36-96.1:1, 36-96.3:1, and 59.1-200 of the Code of Virginia are amended and reenacted as follows:****§ 36-96.1:1. Definitions.**

For the purposes of this chapter, unless the context requires a different meaning:

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

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

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

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

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

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

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

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

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

"Fair housing testing" means a controlled experiment in which at least two groups of housing consumers interact with a housing provider under the same or similar circumstances with the purpose of determining whether a housing provider engages in discriminatory housing practices. For purposes of this definition, "housing consumer" means a person acting under fictitious persona.

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

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

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

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

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C.

60 § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a
61 veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except
62 that the support provided by the service member to the individual shall have been provided 180 days
63 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
64 under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C.
65 Chapter 50.

66 "Person" means one or more individuals, whether male or female, corporations, partnerships,
67 associations, labor organizations, fair housing organizations, civil rights organizations, organizations,
68 governmental entities, legal representatives, mutual companies, joint stock companies, trusts,
69 unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

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

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

83 "Restrictive covenant" means any specification in any instrument affecting title to real property that
84 purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color,
85 religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military
86 status, or disability.

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

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

92 **§ 36-96.3:1. Rights and responsibilities with respect to the use of an assistance animal in a**
93 **dwelling; penalties.**

94 A. A person with a disability, or a person associated with such person, who maintains an assistance
95 animal in a dwelling shall comply with the rental agreement or any rules and regulations of the property
96 owner applicable to all residents that do not interfere with an equal opportunity to use and enjoy the
97 dwelling and any common areas of the premises. Such person shall not be required to pay a pet fee or
98 deposit or any additional rent to maintain an assistance animal in a dwelling, but shall be responsible for
99 any physical damages to the dwelling if residents who maintain pets are responsible for such damages in
100 accordance with such documents or state law. Nothing herein shall be construed to affect any cause of
101 action against any resident for other damages under the laws of the Commonwealth.

102 B. If a person's disability is obvious or otherwise known to the person receiving a request, or if the
103 need for a requested accommodation is readily apparent or known to the person receiving a request, the
104 person receiving a request for reasonable accommodation may not request any additional verification
105 about the requester's disability. If a person's disability is readily apparent or known to the person
106 receiving the request but the disability-related need is not readily apparent or known, the person
107 receiving the request may ask for additional verification to evaluate the requester's disability-related
108 need.

109 C. A person with a disability, or a person associated with such person, may submit a request for a
110 reasonable accommodation to maintain an assistance animal in a dwelling. Subject to subsection B, the
111 person receiving the request may ask the requester to provide, *in writing*, reliable *supporting*
112 documentation of the disability and the disability-related need for an assistance animal; ~~including~~
113 ~~documentation from any from a person with whom the person with a disability requesting the~~
114 ~~reasonable accommodation has or has had a therapeutic relationship.~~

115 D. Subject to subsection B, a person receiving a request for a reasonable accommodation to maintain
116 an assistance animal in a dwelling shall evaluate the request and any reliable supporting documentation
117 to verify the disability and the disability-related need for the reasonable accommodation regarding an
118 assistance animal.

119 E. For purposes of this section, "therapeutic relationship" means the provision of medical care,
120 program care, or personal care services, in good faith, to the person with a disability by (i) a mental
121 health service provider as defined in § 54.1-2400.1; (ii) an individual or entity with a valid, unrestricted

state license, certification, or registration to serve persons with disabilities; (iii) a person from a peer support or similar group that does not charge service recipients a fee or impose any actual or implied financial requirement and who has actual knowledge about the requester's disability; or (iv) a caregiver, reliable third party, or government entity with actual knowledge of the requester's disability.

F. Except for any person, federal or state agency, or private organization participating in fair housing testing for the purpose of investigating allegations of housing discrimination, any person who knowingly and willfully misrepresents himself as needing an assistance animal is guilty of a Class 4 misdemeanor.

G. No person shall provide supporting documentation in an attempt to verify the existence of a disability or disability-related need for a person requesting a reasonable accommodation pursuant to this section if he does not have a therapeutic relationship with the person requesting the reasonable accommodation. A violation of this subsection constitutes a prohibited practice under the provisions of § 59.1-200 and shall be subject to any and all provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;
2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;
4. Misrepresenting geographic origin in connection with goods or services;
5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;
6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";
8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515,

183 3.2-6516, or 3.2-6519 is a violation of this chapter;

184 16. Failing to disclose all conditions, charges, or fees relating to:

185 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
186 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
187 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does
188 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of
189 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not
190 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account
191 for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase.
192 In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any
193 refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision
194 does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise
195 reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser
196 has requested the supplier to order merchandise of a specific or unusual size, color, or brand not
197 ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a
198 transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in
199 § 46.2-100;

200 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time
201 of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the
202 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill
203 of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches
204 the agreement;

205 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess
206 of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment
207 on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of
208 receiving overpayments. If the credit balance information is incorporated into statements of account
209 furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

210 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
211 connection with a consumer transaction, failing to adhere to the terms and conditions of such an
212 agreement;

213 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

214 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et
215 seq.);

216 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et
217 seq.);

218 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4
219 (§ 59.1-207.17 et seq.);

220 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

221 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32
222 (§ 59.1-424 et seq.);

223 24. Violating any provision of § 54.1-1505;

224 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter
225 17.6 (§ 59.1-207.34 et seq.);

226 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

227 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

228 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

229 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
230 seq.);

231 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
232 seq.);

233 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

234 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

235 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

236 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

237 35. Using the consumer's social security number as the consumer's account number with the supplier,
238 if the consumer has requested in writing that the supplier use an alternate number not associated with
239 the consumer's social security number;

240 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

241 37. Violating any provision of § 8.01-40.2;

242 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

243 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

244 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.);
42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
43. Violating any provision of § 59.1-443.2;
44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
47. Violating any provision of § 18.2-239;
48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";
50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
52. Violating any provision of § 8.2-317.1;
53. Violating subsection A of § 9.1-149.1;
54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;
55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
59. Violating any provision of subsection E of § 32.1-126;
60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
61. Violating any provision of § 2.2-2001.5;
62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
63. Violating any provision of § 6.2-312;
64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2; ~~and~~
66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.); *and*
67. *Violating subsection G of § 36-96.3:1.*
- B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.