

26105175D

**HOUSE BILL NO. 999**

Offered January 14, 2026

Prefiled January 14, 2026

*A BILL to amend and reenact §§ 2.2-3906, 6.2-500, 6.2-501, 6.2-506, 6.2-510, 6.2-513, 36-96.1:1, 36-96.3, 36-96.4, 36-96.8, 36-96.10, and 36-96.16 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-3905.2, relating to Virginia Human Rights Act; equal credit opportunities; Virginia Fair Housing Law; nondiscrimination by automated decision systems.*

Patron—Cole, J.G.

Committee Referral Pending

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

**1. That §§ 2.2-3906, 6.2-500, 6.2-501, 6.2-506, 6.2-510, 6.2-513, 36-96.1:1, 36-96.3, 36-96.4, 36-96.8, 36-96.10, and 36-96.16 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-3905.2 as follows:**

**§ 2.2-3905.2. Nondiscrimination by automated decision systems.**

*A. As used in this section:*

*"Artificial intelligence system" means an engineered or machine-based system that, for explicit or implicit objectives, infers from the inputs such system receives how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments, including decisions about an individual's eligibility, benefits, or opportunities.*

*"Automated decision system" means any computational process, including those derived from artificial intelligence systems or machine learning, that is used to make or assist in making decisions related to employment, housing, education, lending status, or access to public accommodations.*

*"Person" includes the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, an employer, an employment agency, a labor organization, a joint apprenticeship committee, an elementary or secondary school, or an institution of higher education.*

*"Proxy" includes geographic indicators, such as a zip code or census tract area.*

*B. It is an unlawful discriminatory practice for any person to deploy, use, or rely on an automated decision system:*

*1. To make a decision related to employment, education, or access to public accommodations that results in discrimination or an unlawful disparate impact on the basis of race, color, religion, ethnic or national origin, sex, pregnancy, childbirth or related medical conditions, age, sexual orientation, gender identity, marital status, disability, or military status; or*

*2. That intentionally or knowingly uses variables or data fields that serve as close proxies for protected characteristics, including race, color, religion, ethnic or national origin, sex, pregnancy, childbirth or related medical conditions, age, sexual orientation, gender identity, marital status, disability, or military status, unless such use is necessary to achieve a substantial, legitimate, and nondiscriminatory objective that cannot be accomplished through less discriminatory means.*

*C. Any person that deploys, uses, or relies on an automated decision system to make a decision related to employment, education, or access to public accommodations shall disclose to any individual who is the subject of such decision, at or before the time such decision is made, that:*

*1. An automated decision system was deployed, used, or relied on in the decision-making process;*

*2. The individual may request meaningful information about the system and the principal data inputs such system relied on, and such person shall timely provide such information; and*

*3. The procedure for filing a complaint is available pursuant to § 2.2-3907.*

*D. Any person that deploys, uses, or relies on an automated decision system to make a decision related to employment, education, or access to public accommodations shall annually assess such system for bias, disparate impact, and discriminatory outcomes. Such assessments shall include:*

*1. An evaluation of the system's training data, decision-making criteria, and outputs across relevant demographic groups;*

*2. Identification and mitigation of any patterns of bias, disparate impact, or discriminatory outcomes; and*

*3. Documentation of all findings and any corrective actions taken.*

*An automated decision system that is in conformity with the latest version of the Artificial Intelligence Risk Management Framework published by the National Institute of Standards and Technology, Standard ISO/IEC 42001 of the International Organization for Standardization, or another nationally or internationally recognized risk management framework for artificial intelligence systems, or parts thereof, shall be presumed to be in conformity with related requirements set out in this section.*

59 *E. Any person that deploys, uses, or relies on an automated decision system to make a decision related to*  
60 *employment, education, or access to public accommodations shall maintain for no fewer than two years from*  
61 *the date a decision is made:*

62 *1. A description of the purpose of the system and the manner in which automated outputs from such*  
63 *system influence the decisions made by a person;*

64 *2. A description of the categories of data used by the system and how such data is sourced;*

65 *3. Assessments performed pursuant to subsection D and any other evaluations related to the system's*  
66 *performance; and*

67 *4. Disclosures made pursuant to subsection C and any other communications or notices provided to*  
68 *individuals subject to the decisions made using the system.*

69 *F. The deployment of, use of, or reliance on an automated decision system shall not exempt any person*  
70 *from liability under this chapter. A person that deploys, uses, or relies on such a system to make a decision*  
71 *related to employment, education, or access to public accommodations shall be considered to have engaged*  
72 *in the decision-making process for purposes of this chapter.*

73 *G. The Office of Civil Rights of the Department of Law may request any documentation related to the*  
74 *deployment of, use of, or reliance on an automated decision system to make a decision related to*  
75 *employment, education, or access to public accommodations for any investigation initiated pursuant to this*  
76 *chapter and may issue guidance on best practices for preventing discrimination pursuant to this chapter as a*  
77 *result of the deployment of, use of, or reliance on an automated decision system.*

78 **§ 2.2-3906. Civil action by Attorney General.**

79 *A. Whenever the Attorney General has reasonable cause to believe that any person or group of persons is*  
80 *engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this chapter,*  
81 *or that any person or group of persons has been denied any of the rights granted by this chapter and such*  
82 *denial raises an issue of general public importance, the Attorney General may commence a civil action in the*  
83 *appropriate circuit court for appropriate relief.*

84 *B. In such civil action, the court may:*

85 *1. Award such preventive relief, including a permanent or temporary injunction, restraining order, or other*  
86 *order against the person responsible for a violation of this chapter, as is necessary to assure the full enjoyment*  
87 *of the rights granted by this chapter.*

88 *2. Assess a civil penalty against the respondent (i) in an amount not exceeding \$50,000 for a first violation*  
89 *and (ii) in an amount not exceeding \$100,000 for any subsequent violation. Such civil penalties are payable to*  
90 *the Literary Fund.*

91 *3. Award a prevailing plaintiff reasonable attorney fees and costs.*

92 *C. The court or jury may award such other relief to the aggrieved person as the court deems appropriate,*  
93 *including compensatory damages and punitive damages.*

94 *D. Upon timely application, any person may intervene in a civil action commenced by the Attorney*  
95 *General under subsection A that involves an alleged discriminatory practice pursuant to this chapter with*  
96 *respect to which such person is an aggrieved person. The court may grant such appropriate relief to any such*  
97 *intervening party as is authorized to be granted to a plaintiff in a civil action under § 2.2-3908.*

98 *E. Prior to causing an action against a person for a violation of § 2.2-3905.2, the Attorney General shall*  
99 *determine, in consultation with such person, if it is possible to cure the violation. If it is possible to cure such*  
100 *violation, the Attorney General may issue a notice of violation to the person and afford such person the*  
101 *opportunity to cure such violation within 45 days of the receipt of such notice of violation. In determining*  
102 *whether to grant such opportunity to cure such violation, the Attorney General shall consider (i) the number*  
103 *of violations, (ii) the resources of the person, (iii) the nature and extent of the person's business, (iv) the*  
104 *substantial likelihood of injury to the public, (v) the safety of other persons or property, and (vi) whether such*  
105 *violation was likely caused by human or technical error. If the person fails to cure such violation within 45*  
106 *days of the receipt of such notice of violation, the Attorney General may proceed with an action pursuant to*  
107 *this section.*

108 **§ 6.2-500. Definitions.**

109 *As used in this chapter, unless the context requires a different meaning:*

110 *"Adverse action" means a denial or revocation of credit, a change in the terms of an existing credit*  
111 *arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms requested.*  
112 *The term does not include a refusal to extend additional credit under an existing credit arrangement where the*  
113 *applicant is delinquent or otherwise in default, or where such additional credit would exceed a previously*  
114 *established credit limit.*

115 *"Applicant" means any person who applies to a creditor directly for an extension, renewal, or continuation*  
116 *of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding the*  
117 *previously established credit limit.*

118 *"Artificial intelligence system" means an engineered or machine-based system that, for explicit or implicit*  
119 *objectives, infers from the inputs such system receives how to generate outputs such as predictions, content,*  
120 *recommendations, or decisions that can influence physical or virtual environments, including decisions about*

an individual's eligibility, benefits, or opportunities.

"Automated decision system" means any computational process, including those derived from artificial intelligence systems or machine learning, that is used to make or assist in making decisions related to employment, housing, education, lending status, or access to public accommodations.

"Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment or to purchase property or services and defer payment therefor.

"Creditor" means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

"Proxy" includes geographic indicators, such as a zip code or census tract area.

**§ 6.2-501. Prohibited discrimination.**

A. As used in this section, "age" means being an individual who is at least 18 years of age.

B. It ~~shall be~~ is unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction:

1. On the basis of race, color, religion, national origin, sex, marital status, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, disability, or status as a veteran provided that the applicant has the capacity to contract; ~~or~~

2. Because all or part of the applicant's income derives from any public assistance or social services program;

3. Through the deployment of, use of, or reliance on an automated decision system to make a decision to extend, renew, or continue credit on the basis of race, color, religion, national origin, sex, marital status, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, disability, or status as a veteran provided that the applicant has the capacity to contract; or

4. Through the deployment of, use of, or reliance on an automated decision system that intentionally or knowingly uses variables or data fields that serve as close proxies for protected characteristics, including race, color, religion, national origin, sex, marital status, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, disability, or status as a veteran, to make a decision to extend, renew, or continue credit.

C. It shall not constitute discrimination for purposes of this chapter for a creditor:

1. To make an inquiry of marital status if such inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and not to discriminate in a determination of creditworthiness;

2. To make an inquiry of the applicant's age or of whether the applicant's income derives from any public assistance or social services program if such inquiry is for the purpose of determining the amount and probable continuance of income levels, credit history, or other pertinent element of creditworthiness as provided in regulations of the Commission;

3. To use any empirically derived credit system which considers age if such system is demonstrably and statistically sound in accordance with regulations of the Commission, except that in the operation of such system the age of an elderly applicant may not be assigned a negative factor or value; or

4. To make an inquiry or to consider the age of an elderly applicant when the age of such applicant is to be used by the creditor in the extension of credit in favor of such applicant.

D. It is not a violation of this section for a creditor to refuse to extend credit offered pursuant to:

1. Any credit assistance program expressly authorized by law for an economically disadvantaged class of persons;

2. Any credit assistance program administered by a nonprofit organization for its members or an economically disadvantaged class of persons; or

3. Any special purpose credit program offered by a profit-making organization to meet special social needs which meets standards prescribed in regulations by the Commission, if such refusal is required by or made pursuant to such program.

E. The deployment of, use of, or reliance on an automated decision system shall not exempt any creditor from liability under this chapter. A creditor that deploys, uses, or relies on such a system to make a decision to extend, renew, or continue credit shall be considered to have engaged in the decision-making process for purposes of this chapter.

F. Any creditor that deploys, uses, or relies on an automated decision system to make a decision to extend, renew, or continue credit shall:

1. Disclose to any individual who is the subject of such decision, at or before the time such decision is made, that:

a. An automated decision system was deployed, used, or relied on in the decision-making process;

b. The individual may request meaningful information about the system and the principal data inputs such system relied on, and such person shall timely provide such information; and

c. The procedure for filing a complaint is available as permitted by § 6.2-510.

2. Annually assess such system for bias, disparate impact, and discriminatory outcomes. Such assessments

183 shall include:

184 a. An evaluation of the system's training data, decision-making criteria, and outputs across relevant  
185 demographic groups;

186 b. Identification and mitigation of any patterns of bias, disparate impact, or discriminatory outcomes; and

187 c. Documentation of all findings and any corrective actions taken.

188 An automated decision system that is in conformity with the latest version of the Artificial Intelligence  
189 Risk Management Framework published by the National Institute of Standards and Technology, Standard  
190 ISO/IEC 42001 of the International Organization for Standardization, or another nationally or  
191 internationally recognized risk management framework for artificial intelligence systems, or parts thereof,  
192 shall be presumed to be in conformity with related requirements set out in this subsection.

193 3. Maintain for no fewer than two years from the date a decision is made:

194 a. A description of the purpose of the system and the manner in which automated outputs from such  
195 system influence the decisions made by a person;

196 b. A description of the categories of data used by the system and how such data is sourced;

197 c. Assessments performed pursuant to subdivision 2 and any other evaluations related to the system's  
198 performance; and

199 d. Disclosures made pursuant to subdivision 1 and any other communications or notices provided to  
200 individuals subject to the decisions made using the system.

201 **§ 6.2-506. Commission regulations.**

202 The Commission shall adopt regulations to effectuate the purposes of this chapter provided that such  
203 regulations conform to and are no broader in scope than regulations, and amendments thereto, adopted by the  
204 Consumer Financial Protection Bureau under the federal Equal Credit Opportunity Act (15 U.S.C. § 1691 et  
205 seq.). Such conforming regulations shall exempt from the coverage of this chapter any class of transactions  
206 which may be exempted from time to time from the federal Equal Credit Opportunity Act (15 U.S.C. § 1691  
207 et seq.), by regulations of the Consumer Financial Protection Bureau. *Additionally, the Commission may issue*  
208 *guidance on best practices for preventing discrimination pursuant to this chapter as a result of the*  
209 *deployment of, use of, or reliance on an automated decision system.*

210 **§ 6.2-510. Commission to investigate complaints; records to be open to public.**

211 The Commission shall receive, investigate, and mediate complaints of violations of this chapter and shall  
212 keep all records pertaining to such complaints, investigations, and mediations open to the public. *The*  
213 *Commission may request any documentation related to the deployment of, use of, or reliance on an*  
214 *automated decision system to make a decision to extend, renew, or continue credit for any investigation*  
215 *initiated pursuant to this chapter. Nothing in this section shall toll the operation of subsection E of § 6.2-505.*

216 **§ 6.2-513. Authority of Attorney General.**

217 Notwithstanding any other provisions of the law to the contrary, the Attorney General may investigate and  
218 bring an action in the name of the Commonwealth to enjoin any violation of this chapter.

219 *However, prior to causing an action against a creditor that has deployed, used, or relied on an automated*  
220 *decision system in violation of this chapter, the Attorney General shall determine, in consultation with such*  
221 *creditor, if it is possible to cure the violation. If it is possible to cure such violation, the Attorney General may*  
222 *issue a notice of violation to the creditor and afford such creditor the opportunity to cure such violation*  
223 *within 45 days of the receipt of such notice of violation. In determining whether to grant such opportunity to*  
224 *cure such violation, the Attorney General shall consider (i) the number of violations, (ii) the resources of the*  
225 *creditor, (iii) the nature and extent of the creditor's business, (iv) the substantial likelihood of injury to the*  
226 *public, (v) the safety of persons or property, and (vi) whether such violation was likely caused by human or*  
227 *technical error. If the creditor fails to cure such violation within 45 days of the receipt of such notice of*  
228 *violation, the Attorney General may proceed with an action pursuant to this section.*

229 **§ 36-96.1:1. Definitions.**

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

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

234 "Artificial intelligence system" means an engineered or machine-based system that, for explicit or implicit  
235 objectives, infers from the inputs such system receives how to generate outputs such as predictions, content,  
236 recommendations, or decisions that can influence physical or virtual environments, including decisions about  
237 an individual's eligibility, benefits, or opportunities.

238 "Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of  
239 a person with a disability, or provides emotional support that alleviates one or more identified symptoms or  
240 effects of a person's disability. Assistance animals perform many disability-related functions, including  
241 guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to  
242 sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to  
243 impending seizures, or providing emotional support to persons with disabilities who have a disability-related  
244 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.

*"Automated decision system" means any computational process, including those derived from artificial intelligence systems or machine learning, that is used to make or assist in making decisions related to employment, housing, education, lending status, or access to public accommodations.*

"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.

"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.

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

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

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

*"Proxy" includes geographic indicators, such as a zip code or census tract area.*

"Religion" includes any outward expression of religious faith, including adherence to religious dressing and grooming practices and the carrying or display of religious items or symbols.

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

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

disability.

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

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

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

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

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

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

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

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

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

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

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

8. Refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise discriminate or make unavailable or deny a dwelling because of a disability of (i) the buyer or renter; (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (iii) any person associated with the buyer or renter; ~~or~~

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

10. *Deploy, use, or rely on an automated decision system to make a decision related to the sale or rental of a dwelling that results in discrimination or an unlawful disparate impact on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, military status, or disability; or*

11. *Deploy, use, or rely on an automated decision system that intentionally or knowingly uses variables or data fields that serve as close proxies for protected characteristics, including race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, military status, or disability.*

B. For ~~the~~ purposes of this section, discrimination includes (i) a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by any person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable accommodations in rules,

practices, policies, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:

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

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

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

C. It ~~shall be~~ is an unlawful discriminatory housing practice for any political jurisdiction or its employees or appointed commissions to discriminate in the application of local land use ordinances or guidelines, or in the permitting of housing developments, (i) on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, military status, or disability; (ii) because the housing development contains or is expected to contain affordable housing units occupied or intended for occupancy by families or individuals with incomes at or below 80 percent of the median income of the area where the housing development is located or is proposed to be located; or (iii) by prohibiting or imposing conditions upon the rental or sale of dwelling units, provided that the provisions of this subsection shall not be construed to prohibit ordinances related to short-term rentals as defined in § 15.2-983. It shall not be a violation of this chapter if land use decisions or decisions relating to the permitting of housing developments are based upon considerations of limiting high concentrations of affordable housing.

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

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

*F. Any person that deploys, uses, or relies on an automated decision system to make a decision related to the sale or rental of a dwelling shall:*

*1. Disclose to any individual who is the subject of such decision, at or before the time such decision is made, that:*

*a. An automated decision system was deployed, used, or relied on in the decision-making process;*

*b. The individual may request meaningful information about the system and the principal data inputs such system relied on, and such person shall timely provide such information; and*

*c. The procedure for filing a complaint is available pursuant to § 36-96.9.*

*2. Annually assess such system for bias, disparate impact, and discriminatory outcomes. Such assessments shall include:*

*a. An evaluation of the system's training data, decision-making criteria, and outputs across relevant demographic groups;*

*b. Identification and mitigation of any patterns of bias, disparate impact, or discriminatory outcomes; and*

*c. Documentation of all findings and any corrective actions taken.*

*An automated decision system that is in conformity with the latest version of the Artificial Intelligence Risk Management Framework published by the National Institute of Standards and Technology, Standard ISO/IEC 42001 of the International Organization for Standardization, or another nationally or internationally recognized risk management framework for artificial intelligence systems, or parts thereof, shall be presumed to be in conformity with related requirements set out in this subsection.*

*3. Maintain for no fewer than two years from the date a decision is made:*

*a. A description of the purpose of the system and the manner in which automated outputs from such system influence the decisions made by a person;*

*b. A description of the categories of data used by the system and how such data is sourced;*

*c. Assessments performed pursuant to subdivision 2 and any other evaluations related to the system's performance; and*

*d. Disclosures made pursuant to subdivision 1 and any other communications or notices provided to individuals subject to the decisions made using the system.*

*G. The deployment of, use of, or reliance on an automated decision system shall not exempt any person from liability under this chapter. A person that uses such a system to make a decision related to the sale or*

rental of a dwelling shall be considered to have engaged in the decision-making process for purposes of this chapter.

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

A. It is unlawful for any person or other entity, including any lending institution, whose business includes engaging in residential real estate-related transactions, *whether or not the person or other entity deploys, uses, or relies on an automated decision system for such transactions*, to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, or in the manner of providing such a transaction, because of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military status, or disability. It is not unlawful, however, for any person or other entity whose business includes engaging in residential real estate-related transactions to require any applicant to qualify financially for the loan or loans for which such person is making application.

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

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

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

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

**§ 36-96.8. Powers of Real Estate Board and Fair Housing Board.**

A. The Real Estate Board and the Fair Housing Board, as provided in this chapter, have the power for the purposes of this chapter to initiate and receive complaints, conduct investigations of any violation of this chapter, attempt resolution of complaints by conference and conciliation, and, upon failure of such efforts, issue a charge and refer it to the Attorney General for action.

B. The Real Estate Board and the Fair Housing Board shall perform all acts necessary and proper to carry out the provisions of this chapter and may promulgate and amend necessary regulations. *Such regulations may include guidance on best practices for preventing discrimination, as provided in this chapter, as a result of the deployment of, use of, or reliance on an automated decision system.*

**§ 36-96.10. Procedures for investigation.**

A. The Board shall commence proceedings with respect to a complaint within thirty days after receipt of the complaint, and shall complete the investigation within 100 days thereof unless it is impracticable to do so. If the Board is unable to complete the investigation within 100 days after the receipt of the complaint, the aggrieved person and the respondent shall be notified in writing of the reasons for not doing so.

B. When conducting an investigation of a complaint filed under this chapter, the Board shall have the right to interview any person who may have any information ~~which that~~ which may further its investigation and to request production of any records or documents *in the possession of any person, including any records or documents related to the deployment of, use of, or reliance on an automated decision system*, for inspection and copying ~~in the possession of any person which that~~ which may further the investigation. Such persons shall be interviewed under oath. The Board or its designated subordinates shall have the power to issue and serve a subpoena to any such person to appear and testify and to produce any such records or documents for inspection and copying. Said subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served as part of a civil action in the Commonwealth of Virginia. In case of refusal or neglect to obey a subpoena, the Board may petition for its enforcement in the Circuit Court for the City of Richmond. The hearing on such petition shall be given priority on the court docket over all cases which are not otherwise given priority on the court docket by law.

C. At the end of each investigation under this section, the Board shall prepare a final investigative report containing:

1. The names and dates of contacts with witnesses;

2. A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;



3. A summary description of other pertinent records;  
 4. A summary of witness statements; and  
 5. Answers to interrogatories.

A final report under this subsection may be amended if additional evidence is later discovered.

D. The Board shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Board's investigation, information derived from an investigation and any final investigative report relating to that investigation.

**§ 36-96.16. Civil action by Attorney General upon referral of charge by the Real Estate Board.**

A. Not later than thirty days after a charge is referred by the Board to the Attorney General under § 36-96.14, the Attorney General shall commence and maintain a civil action seeking relief on behalf of the complainant in the circuit court for the city, county, or town in which the unlawful discriminatory housing practice has occurred or is about to occur.

B. Any aggrieved person with respect to the issues to be determined in a civil action pursuant to subsection A may intervene as of right.

C. In a civil action under this section, if the court or jury finds that a discriminatory housing practice has occurred or is about to occur, the court or jury may grant, as relief, any relief which a court could grant with respect to such discriminatory housing practice in a civil action under § 36-96.18. Any relief so granted that would accrue to an aggrieved person under § 36-96.18 shall also accrue to the aggrieved person in a civil action under this section. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court in the course of the action brought under this section.

D. In any court proceeding arising under this section, the court, in its discretion, may allow the prevailing party reasonable attorney's fees and costs.

*E. Prior to causing an action against a person that has deployed, used, or relied on an automated decision system in violation of this chapter, the Attorney General shall determine, in consultation with such person, if it is possible to cure the violation. If it is possible to cure such violation, the Attorney General may issue a notice of violation to the person and afford such person the opportunity to cure such violation within 45 days of the receipt of such notice of violation. In determining whether to grant such opportunity to cure such violation, the Attorney General shall consider (i) the number of violations, (ii) the resources of the person, (iii) the nature and extent of the person's business, (iv) the substantial likelihood of injury to the public, (v) the safety of other persons or property, and (vi) whether such violation was likely caused by human or technical error. If the person fails to cure such violation within 45 days of the receipt of such notice of violation, the Attorney General may proceed with an action pursuant to this section.*