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HOUSE BILL NO. 379
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on General Laws and Technology
on _____)
(Patron Prior to Substitute—Delegate Bennett-Parker)

A BILL to amend and reenact §§ 36-96.2 and 55.1-1203 of the Code of Virginia, relating to Virginia Residential Landlord and Tenant Act; application; notice, deposit, fee, and additional information.

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-96.2 and 55.1-1203 of the Code of Virginia are 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.

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

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

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

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

60 G. Nothing in this chapter limits the applicability of any reasonable local, state or federal restriction
61 regarding the maximum number of occupants permitted to occupy a dwelling. Owners or managing agents of

62 dwellings may develop and implement reasonable occupancy and safety standards based on factors such as
63 the number and size of sleeping areas or bedrooms and overall size of a dwelling unit so long as the standards
64 do not violate local, state or federal restrictions. Nothing in this chapter prohibits the rental application or
65 similar document from requiring information concerning the number, ages, sex and familial relationship of
66 the applicants and the dwelling's intended occupants.

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

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

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

80 **§ 55.1-1203. Application; notice, deposit, fee, and additional information.**

81 *A. Prior to requesting or collecting any payment or information about a prospective tenant, a landlord*
82 *shall first notify the applicant in writing or by posting in a manner accessible to a prospective tenant (i) the*
83 *amount of any fees or application deposit that may be charged to an applicant and whether such fee or*
84 *application deposit is refundable; (ii) the tenant selection criteria applicable to the unit; (iii) any criteria that*
85 *will result in an automatic denial of the application; (iv) additional criteria that may result in the denial of*
86 *the application; (v) if the landlord uses a consumer report in his determination, the name and address of the*
87 *consumer reporting agency; and (vi) the applicant's right to obtain a free copy of the consumer report in the*
88 *event of a denial or other adverse action and right to dispute the accuracy of information appearing in the*
89 *consumer report.*

90 *B. Any landlord may require a refundable application deposit in addition to a nonrefundable application*
91 *fee. If the applicant fails to rent the unit for which application was made, from the application deposit the*

92 landlord shall refund to the applicant within 20 days after the applicant's failure to rent the unit or the
93 landlord's rejection of the application all sums in excess of the landlord's actual expenses and damages
94 together with an itemized list of such expenses and damages. If, however, the application deposit was made
95 by cash, certified check, cashier's check, or postal money order, such refund shall be made within 10 days of
96 the applicant's failure to rent the unit if the failure to rent is due to the landlord's rejection of the application.
97 If the landlord fails to comply with this section, the applicant may recover as damages suffered by him that
98 portion of the application deposit wrongfully withheld and reasonable attorney fees.

99 ~~B. C.~~ A landlord may request that a prospective tenant provide information that will enable the landlord to
100 determine whether each applicant may become a tenant. The landlord may photocopy each applicant's driver's
101 license or other similar photo identification, containing either the applicant's social security number or control
102 number issued by the Department of Motor Vehicles pursuant to § 46.2-342. However, a landlord shall not
103 photocopy a U.S. government-issued identification so long as to do so is a violation of 18 U.S.C. § 701. The
104 landlord may require, for the purpose of determining whether each applicant is eligible to become a tenant in
105 the landlord's dwelling unit, that each applicant provide a social security number issued by the U.S. Social
106 Security Administration or an individual taxpayer identification number issued by the U.S. Internal Revenue
107 Service.

108 ~~C. D.~~ An application fee shall not exceed \$50, exclusive of any actual out-of-pocket expenses paid by the
109 landlord to a third party performing background, credit, or other pre-occupancy checks on the applicant.
110 However, where an application is being made for a dwelling unit that is a public housing unit or other
111 housing unit subject to regulation by the U.S. Department of Housing and Urban Development, an
112 application fee shall not exceed \$32, exclusive of any actual out-of-pocket expenses paid to a third party by
113 the landlord performing background, credit, or other pre-occupancy checks on the applicant.

114 ~~D. E.~~ A landlord shall consider evidence of an applicant's status as a victim of family abuse, as defined in
115 § 16.1-228, to mitigate any adverse effect of an otherwise qualified applicant's low credit score. In order to
116 establish the applicant's status as a victim of family abuse, an applicant may submit to the landlord (i) a letter
117 from a sexual and domestic violence program, a housing counselor certified by the U.S. Department of
118 Housing and Urban Development, or an attorney representing the applicant; (ii) a law-enforcement incident
119 report; or (iii) a court order. If a landlord does not comply with this section, the applicant may recover actual
120 damages, including all amounts paid to the landlord as an application fee, application deposit, or
121 reimbursement for any of the landlord's out-of-pocket expenses that were charged to the prospective tenant,
122 along with attorney fees.