

**Chapter 5**  
**Virginia Fair Housing Law**

Section  
36-86 through 36-96      Repealed by Acts 1991, c. 557.

**Chapter 5.1**  
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## Chapter 5.1 Virginia Fair Housing Law

**§ 36-96.1. Declaration of policy.** — A. This chapter shall be known and referred to as the Virginia Fair Housing Law.

B. It is the policy of the Commonwealth of Virginia to provide for fair housing throughout the Commonwealth, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status, or handicap, and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the Commonwealth may be protected and insured. This law shall be deemed an exercise of the police power of the Commonwealth of Virginia for the protection of the people of the Commonwealth. (1972, c. 591, §§ 36.86, 36-87; 1973, c. 358; 1978, c. 138; 1989, c. 88; 1991, c. 557.)

**§ 36-96.1:1. Definitions.** -- For the purposes of this chapter, unless the context clearly indicates otherwise:

*“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.

*“Complainant”* means a person, including the Fair Housing Board, who files a compliant under § 3-96.9.

*“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.

*“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”* an individual who has attained his fifty-fifth birthday.

*“Familial status”* means one or more individuals who have not attained the age of eighteen 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 eighteen 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.

*“Handicap”* 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. Neither the term "individual with handicap" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

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

*"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.

*"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, or handicap.

*"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. (1972, c. 591, § 36-87; 1973, c. 358; 1978, c. 138; 1989, c. 88; 1991, c. 557; 1992, c. 322; 1996, c. 77.)

**§ 36-96.2. Exemptions.** -- A. Except as provided in § 36-96.3 A 3, 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 twenty-four-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 § 36-96.3 A 3, this chapter shall not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

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

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

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

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

G. Nothing in this chapter limits the applicability of any reasonable local, state or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling. Owners or managing agents of dwellings may develop and implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and overall size of a dwelling unit so long as the standards do not violate local, state or federal restrictions. Nothing in this chapter prohibits the rental application or similar document from requiring information concerning the number, ages, sex and familial relationship of the applicants and the dwelling's intended occupants. (1972, c. 591, §§ 36-87, 36-92; 1973, c. 358; 1978, c. 138; 1989, c. 88; 1991, c. 557;

1992. c. .322.)

**§ 36-96.3. Unlawful discriminatory housing practices.** — A. It shall be an unlawful discriminatory housing practice for any person:

1. To refuse to sell or rent after the making of a bona fide offer or to 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, or familial status;
2. To 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, or familial status;
3. To 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 based on race, color, religion, national origin, sex, elderliness, familial status, or handicap. 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 which shall not be overcome by a general disclaimer. However, reference alone to places of worship including, but not limited to, churches, synagogues, temples, or mosques in any such notice, statement or advertisement shall not be prima facie evidence of an illegal preference;
4. To represent to any person because of race, color, religion, national origin, sex, elderliness, familial status, or handicap that an dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;
5. To 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 to 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, or handicap;
6. To 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 or handicap or for any person to honor or exercise, or attempt to honor or exercise any such discriminatory covenant pertaining to housing;
7. To 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, or handicap;
8. To 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 handicap of (i) the buyer or renter, (ii) a person residing in or intending to reside in that dwelling after it is sold, rented or made available, or (iii) any person associated with the buyer or renter,
9. To 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 handicap 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.

B. For the purposes of this section, discrimination includes: (i) a refusal to permit, at the expense of the handicapped 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 multifamily 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 handicapped persons;

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

3. All premises within covered multifamily 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 multifamily 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. 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 relations promulgated by HUD providing accessibility and usability for physically handicapped people shall be deemed to satisfy the requirements of § 36.96.3 B 3.

D. Nothing in this chapter shall be construed to invalidate or limit any Virginia law or regulation which requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this chapter. (1972, c. 591, § 36-88; 1973, c. 358; 1978, c. 138; 1984, c. 685; 1985, c. 344; 1989, c. 88; 1991, c. 557; 1992, c. 322; 1996, c. 327.)

**§ 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 shall be unlawful for any person or other entity, including any lending institution, whose business includes engaging in residential real estate-related 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, or handicap. It shall not be unlawful, however, for any person or other entity whose business includes engaging in residential real estate 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, or handicap.

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 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. (1972, c. 591, § 36-90; 1973, c. 358; 1989, c. 88; 1991, c. 557.)

**§ 36-96.5. Interference with enjoyment of rights of others under this chapter.** It shall be an unlawful discriminatory housing practice for any person to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on the account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter. (1972, c. 591, § 36-93; 1973, c. 358; 1991, c. 557.)

**§ 36-96.6. Certain restrictive covenants void; instruments containing such covenants.** -- A. Any restrictive covenant and any related reversionary interest, purporting to restrict occupancy or ownership of property on the basis of race, color, religion, national origin, sex, elderliness, familial status, or handicap, whether heretofore or hereafter included in an instrument affecting the title to real or leasehold property, are declared to be void and contrary to the public policy of this Commonwealth.

B. Any person who is asked to accept a document affecting title to real or leasehold property may decline to accept the same if it includes such a covenant or reversionary interest until the covenant or reversionary interest has been removed from the document. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage, or otherwise deal with such property.



C. No person shall solicit or accept compensation of any kind for the release or removal of any covenant or reversionary interest described in subsection A. Any person violating this subsection shall be liable to any person injured thereby in an amount equal to the greater of three times the compensation solicited or received, or \$500, plus reasonable attorneys' fees and costs incurred.

D. A family care home, foster home, or group home in which physically handicapped, mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons, shall be considered for all purposes residential occupancy by a single family when construing any restrictive covenant which purports to restrict occupancy or ownership of real or leasehold property to members of a single family or to residential use or structure. (1972, c. 591, § 36-91; 1973, c. 358; 1986, c. 574; 1989, c. 88; 1991, c. 557; 1998, c. 873.)

**§ 36-96.7. Familial status protection not applicable to housing for older persons. --**

A. Nothing in this chapter regarding unlawful discrimination because of familial status shall apply to housing for older persons. As used in this section, "housing for older persons" means housing: (i) provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined in the state or federal program; or (ii) intended for, and solely occupied by, persons sixty-two years of age or older; or (iii) intended for, and solely occupied by, at least one person fifty-five years of age or older per unit. The following criteria shall be met in determining whether housing qualifies as housing for older persons under clause (iii) of this subsection:

1. At least eighty percent of the occupied units are occupied by at least one person fifty-five years of age or older per unit; and

2. The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

B. Housing shall not fail to meet the requirements for housing for older persons by reason of:

1. Persons residing in such housing as of September 13, 1988, who do not meet the age requirements of clauses (ii) and (iii) of subsection A, provided that new occupants of such housing meet the age requirements of those clauses; or

2. Unoccupied units, provided that such units are reserved for occupancy by persons who meet the provisions of clauses (ii) and (iii) of subsection A. (1991, c. 557; 1992, c. 322; 2000, c. 30.)

**§ 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. (1972, c. 591, § 36-94; 1973, c. 372; 1975, c. 566; 1984, c. 271; 1987, c. 167; 1991, c. 557; 2003 c. 575.)

**§ 36-96.9. Procedures for receipt or initiation of complaint; notice to parties; filing of answer.** -- A. A complaint under § 36-96.8 shall be filed with the Board in writing within one year after the alleged discriminatory housing practice occurred or terminated.

B. Any person not named in the complaint and who is identified as a respondent in the course of the investigation may be joined as an additional or substitute respondent upon written notice to such person by the Board explaining the basis for the Board's belief that such person is properly joined as a respondent.

C. Any respondent may file an answer to a complaint. Complaints and answers must be made in writing, under oath or affirmation, and in such form as the Board requires. Complaints and answers may be reasonably and fairly amended at any time.

D. Upon the filing of a complaint or initiation of a complaint by the Board or its designee, the Board shall provide written notice to the parties as follows:

1. To the aggrieved person acknowledging the filing and advising such person of the time limits and choice of forums under this chapter; and

2. To the respondent, not later than ten days after such filing or the identification of an additional respondent under subsection B, identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this chapter with a copy of the original complaint and copies of any supporting documentation referenced in the complaint. (1991, c. 557.)

**§ 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 may further its investigation and to request production of any records or documents for inspection and copying in the possession of any person 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. (1975, c. 566, § 36-94.1; 1991, c. 557; 1998, c. 634.)

**§ 36-96.11. Reasonable cause determination and effect.** -- The Board shall, within 100 days after the filing of a complaint, determine, based on the facts and after consultation with the Office of the Attorney General, whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so or unless the Board has approved a conciliation agreement with respect to the complaint. If the Board is unable to determine whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur within 100 days after receipt of the complaint, the aggrieved person and the respondent shall be notified in writing of the reasons therefor. (1991, c. 557; 1998, c. 634.)

**§ 36-96.12. No reasonable cause determination and effect.** -- If the Board determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Board shall promptly dismiss the complaint notifying the parties within thirty days of such determination. The Board shall make public disclosure of each dismissal. (1991, c. 557.)

**§ 36-96.13. Conciliation.** -- During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Board, the Board shall, to the extent feasible, engage in conciliation with respect to such complaint.

A. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Board.

B. A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

C. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Board determines that disclosure is not required to further the purposes of this chapter.

D. Whenever the Board has reasonable cause to believe that a respondent has breached a conciliation agreement, the Board may refer the matter to the Attorney General with a recommendation that a civil action be filed under § 36-96.17 for the enforcement of such agreement. (1991, c. 557; 1992, c. 322.)

**§ 36-96.14. Issuance of a charge.** -- Upon failure to resolve a complaint by conciliation and after consultation with the Office of the Attorney General, the Board shall issue a charge on behalf of the aggrieved person or persons and shall immediately refer the charge to the Attorney General, who shall proceed with the charge as directed by § 36-96.16. The Board may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of a trial of a civil action commenced by the aggrieved party under an Act of Congress or a state law seeking relief with respect to that discriminatory housing practice.

1. Such charge:

a. Shall consist of a short and plain statement of the facts upon which the Board has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

b. Shall be based on the final investigative report; and

c. Need not be limited to the acts or grounds alleged in the complaint filed under § 36-96.9.

2. After the Board issues a charge under this section, the Board shall cause a copy thereof to be served on each respondent named in such charge and on each aggrieved person on whose behalf the complaint was filed. (1991, c. 557.)

**§ 36.96.15. Prompt judicial action.** — If the Board concludes at any time following the filing of a complaint and after consultation with the Office of the Attorney General, that prompt judicial action is necessary to carry out the purposes of this chapter, the Board may authorize a civil action by the Attorney General for appropriate temporary or preliminary relief. Upon receipt of such authorization, the Attorney General shall promptly commence and maintain such action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Virginia Rules of Civil Procedure. The commencement of a civil action under this section shall not affect the initiation or continuation of administrative proceedings by the Board under § 36-96.8. (1991, c. 557.)

**§ 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. (1991, c. 557; 1994, c. 814.)

**§ 36.96.17. Civil action by Attorney General; matters involving the legality of any local zoning or other land use ordinance; pattern or practice cases; or referral of conciliation agreement for enforcement.** -- A. If the Board determines, after consultation with the Office of the Attorney General, that an alleged discriminatory housing practice involves the legality of any local zoning or land use ordinance, instead of issuing a charge, the Board shall immediately refer the matter to the Attorney General for civil action in the appropriate circuit court for appropriate relief. A civil action under this subsection shall be commenced no later than the expiration of eighteen months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

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

C. In the event of a breach of a conciliation agreement by a respondent, the Board may authorize a civil action by the Attorney General. The Attorney General may commence a civil action in any appropriate circuit court for appropriate relief. A civil action under this subsection shall be commenced no later than the expiration of ninety days after the referral of such alleged breach.

D. The Attorney General, on behalf of the Board, or other party at whose request a subpoena is issued, under this chapter, may enforce such subpoena in appropriate proceedings in the appropriate circuit court.

E. In a civil action under subsections A, B, and C, the court may:

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

2. Assess a civil penalty against the respondent (i) in an amount not exceeding \$50,000 for a first violation; and (ii) in an amount not exceeding \$100,000 for any subsequent violation.

3. Award the prevailing party reasonable attorneys fees and costs. The Commonwealth shall be liable for such fees and costs to the extent provided by the Code of Virginia.

The court or jury may award such other relief to the aggrieved person, as the court deems appropriate, including compensatory damages, and punitive damages without limitation otherwise imposed by state law.

F. Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection A, B or C which involves an alleged discriminatory

housing practice with respect to which such person is an aggrieved person or a party to a conciliation agreement. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under § 36-96.18. (1991, c. 557, 1994, c. 814).

**§ 36-96.18. Civil action; enforcement by private parties.** — A. An aggrieved person may commence a civil action in an appropriate United States district court or state court not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this chapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

B. An aggrieved person may commence a civil action under § 36-96. 18 A no later than 180 days after the conclusion of the administrative process with respect to a complaint or charge, or not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, whichever is later. This subsection shall not apply to actions arising from a breach of a conciliation agreement. An aggrieved person may commence a civil action under this section whether or not a complaint has been filed under § 36-96.9 and without regard to the status of any such complaint. If the Board or a federal agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this section by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

C. In a civil action under subsection A, if the court or jury finds that a discriminatory housing practice has occurred or is about to occur, the court or jury may award to the plaintiff, as the prevailing party, compensatory and punitive damages, without limitation otherwise imposed by state law, and the court may award reasonable attorney's fees and costs, and subject to subsection D, may grant as relief, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or order such affirmative action as may be appropriate.

D. Relief granted under subsection C shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving bona fide purchasers, encumbrancer or tenant, without actual notice of the filing of a complaint with the Board or civil action under this chapter.

E. Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon intervention, the Attorney General may obtain such relief as would be available to the private party under subsection C. (1972, c. 591, § 36-94; 1973, c. 372; 1975, c. 566; 1984, c. 271; 1987, c. 167; 1991, c. 557, 1994, 814.)

**§ 36-96.19. Witness fees.** — Witnesses summoned by a subpoena under this chapter shall be entitled to the same witness and mileage fees as witnesses in proceedings in the courts of the Commonwealth. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Board. (1991, c. 557.)

**§ 36-96.20. Additional powers of the Real Estate Board; action on real estate licenses; regulations.** -- A. In any case in which the Real Estate Board has received or initiated a complaint and conducted an investigation of any violation of this chapter and determined that there exists reasonable cause to believe that a real estate broker, real estate salesperson, real estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.), or their agents or employees have engaged in discriminatory housing practices prohibited by the Virginia Fair Housing Law (§ 36-96.1 et seq.) or the Virginia Equal Credit Opportunity Act (§ 59.1-21.19 et seq.), the Board shall immediately attempt to resolve the matter by conference and conciliation, and upon failure to resolve the matter in such manner, may initiate an administrative hearing to determine whether to revoke, suspend or fail to renew the license or licenses in question. Not less than ten days prior to the initial conference hereunder, the Board shall prepare and deliver to the respondent or respondents a written report setting forth the scope, findings and conclusions of the investigation conducted under this section.

B. If any person operating under a real estate license issued by the Board, pursuant to the provisions of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1, is found by a court to have violated any provision of this chapter and this fact is so certified to the Board, the Board, after notification to the licensee, shall take appropriate action to consider suspension or revocation of the license of the licensee. (1972, c. 591, §§ 38-94, 36-95.2; 1973, c. 372; 1975, c. 566; 1984, c. 271; 1987, c. 167; 1991, c. 557; 1992, c. 84; 2003 c. 575.)

**§ 36-96.21. Powers of counties, cities and towns.** -- A. Any county, city or town which has any ordinance in effect on January 1, 1991, enacted under the Virginia Fair Housing Law (§ 36-86 et seq.), the Virginia Human Rights Act (§ 2.1-714 et seq.), or any other applicable state law may continue to enforce such ordinance and may amend the ordinance, provided the amendment is not inconsistent with this chapter.

B. The governing body of any county, city or town may enact ordinances in accordance with the provisions of this chapter provided that (i) such ordinances conform to this chapter and are enacted prior to September 30, 1992, and (ii) such amended ordinances are submitted to the U.S. Department of Housing and Urban Development for a determination of substantial equivalency pursuant to Title VIII, Civil Rights Act of 1968 (42 U.S.C. §§ 3604-3606), as amended. (1972, c. 591, § 36-96; 1975, c. 345; 1982, c. 113; 1991, c. 55R 1996, cc. 173, 369.)

**§ 36-96.22. Application of chapter.** — If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect the other provisions or applications of this chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are severable. (1991, c. 557.)

**§ 36-96.23. Construction of law.** -- Nothing in this chapter shall abridge the federal Fair Housing Act of 1968 (42 U.S.C. § 3601 et seq.) as amended. (1991, c. 557.)

**Chapter 23.2.**  
**Fair Housing Board**

**§ 54.1-2343. Definitions.** As used in this chapter, unless the context requires a different meaning:

"Board" means the Fair Housing Board.

"Fair Housing Law" means the provisions of Chapter 5.1 (§ 36-96.1 et seq.) of Title 36.

**§ 54.1-2344. Fair Housing Board; membership; terms; chairman; powers and duties.**

A. The Fair Housing Board shall be composed of 11 members, to be appointed by the Governor, as follows: one representative of local government, one architect licensed in accordance with Chapter 4 (§ 54.1-400 et seq.) of this title, one representative of the mortgage lending industry, one representative of the property and casualty insurance industry, one representative of the residential property management industry not licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) of this title, one contractor licensed in accordance with Chapter 11 (§ 54.1-1100 et seq.) of this title, one representative of the disability community, one representative of the residential land lease industry subject to Chapter 13.3 (§ 55-248.41 et seq.) of Title 55, and three citizen members selected in accordance with § 54.1-107. Initial terms of Board members shall be as follows: four members shall be appointed for a term of four years; four members shall be appointed for a term of three years, and three members shall be appointed for a term of two years. Thereafter, all terms of Board members shall be for terms of four years.

B. The Board shall elect a chairman from its membership.

C. The Board shall adopt a seal by which it shall authenticate its proceedings.

D. The Board shall be responsible for the administration and enforcement of the Fair Housing Law. However, the Board shall have no authority with respect to a real estate broker, real estate salesperson, real estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.), or their agents or employees who have allegedly violated, or who have in fact violated, the Fair Housing Law.

The Board shall have the power and duty to establish, by regulation, an education-based certification or registration program for persons subject to the Fair Housing Law who are involved in the business or activity of selling or renting dwellings. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this chapter.

No education-based program established by the Board shall require Board certification or registration where an individual holds a valid license issued by the Real Estate Board.

Any courses approved by the Real Estate Board to meet the fair housing requirement of § 54.1-2105 and the instructors approved by the Real Estate Board to teach continuing education courses in accordance with § 54.1-2105 shall not require additional approval by the Fair Housing Board to meet any education requirements in this section and in the regulations of the Fair Housing Board.

2. That the Fair Housing Board shall promulgate regulations to implement the certification provisions of this act to be effective within 280 days of its enactment.

3. That all rules and regulations adopted by the Real Estate Board that are in effect as of the effective date of this act and that pertain to the subject of this act shall remain in full force and effect until altered, amended or rescinded by the Fair Housing Board.



4. That, to affect the purposes of this act, the Real Estate Board and the Fair Housing Board may (i) share staff and other resources, (ii) coordinate educational requirements for their respective regulants, (iii) coordinate the adoption of their respective regulations, and (iv) otherwise provide for the consistent application of the Virginia Fair Housing Law (§ 36-96.1 et seq.).

5. That the Real Estate Board shall provide funding for the operation of the Fair Housing Board until such time as the Fair Housing Board is funded through the implementation of the certification and registration requirements authorized by the provisions of this act. (2003 c. 575.).