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Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Real Estate Board and Fair Housing Board
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC135-50
VAC Chapter title(s)	Fair Housing Regulations
Action title	SB 803 Amendment (Define Terms Related to Unlawful Conduct under Virginia Fair Housing Law)
Date this document prepared	November 2, 2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 17 (2026) (EO 17), any instructions or procedures issued by the Department of Planning and Budget (DPB) pursuant to EO 17, the *Regulations for Filing and Publishing Agency Regulations* (1 VAC 7-10), and the *Form, Style, and Procedure Manual for Publication of Virginia Regulations.*

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Real Estate Board and Fair Housing Board (collectively “the Boards”) are promulgating an emergency regulation to implement and comply with Chapter 1029 of the 2026 Acts of Assembly which directs these agencies to put into effect a regulation that defines "*quid pro quo* harassment," "hostile environment harassment,” "prohibited interference," "coercion," and "intimidation conduct" consistent with applicable provisions of federal fair housing regulation. The emergency regulation will also include provisions that (i) describe various prohibited harassment that would constitute discrimination, consistent with current federal fair housing regulation; and (ii) address a person’s liability for discriminatory housing practices that violate fair housing law. The Boards intend to propose a permanent replacement regulation.

The Boards have statutory responsibility for administering and enforcing the Virginia Fair Housing Law ("VFHL"). The Fair Housing Regulations (18VAC135-50) provide the Boards' "…interpretation of the coverage of the VFHL regarding discrimination related to the sale or rental of dwellings, the provision of services in connection therewith, the availability of residential real estate-related transactions, or any other discriminatory conduct prohibited by the [VFHL]."

Acronyms and Definitions

Define all acronyms and any technical terms used in this form that are not defined in the "Definitions" section of the regulation.

"DPOR" means the Department of Professional and Occupational Regulation.

"Hostile environment harassment" refers to unwelcome conduct that is sufficiently severe or pervasive as to interfere with (i) the availability, sale, rental, or use or enjoyment of a dwelling; (ii) the terms, conditions, or privileges of the sale or rental, or the provision or enjoyment of services or facilities in connection with the same; or (iii) the availability, terms, or conditions of a residential real estate-related transaction. Hostile environment harassment does not require a change in the economic benefits, terms, or conditions of the dwelling or housing-related services or facilities, or of the residential real-estate transaction.

"HUD" means the United States Department of Housing and Urban Development.

"MLS" means multiple listing service.

"Protected class" refers to race, color, religion, national origin, sex, disability, elderliness, source of funds, familial status, sexual orientation, gender identity, or military status.

"*Quid pro quo* harassment" refers to an unwelcome request or demand to engage in conduct where submission to the request or demand, either explicitly or implicitly, is made a condition related to the sale, rental or availability of a dwelling; the terms, conditions, or privileges of the sale or rental, or the provision of services or facilities in connection therewith; or the availability, terms, or conditions of a residential real estate-related transaction. An unwelcome request or demand may constitute quid pro quo harassment even if a person acquiesces in the unwelcome request or demand.

"VFHL" means the Virginia Fair Housing Law (Chapter 5.1 of Title 36 of the Code of Virginia.)

Mandate and Impetus (Necessity for Emergency)

1) *Explain why this rulemaking is an emergency situation in accordance with § 2.2-4011 A or B of the Code of Virginia. In doing so, either:*

   a) *Indicate whether the Governor's Office has already approved the use of emergency regulatory authority for this regulatory change.*
   b) *Provide specific citations to Virginia statutory law, the appropriation act, federal law, or federal regulation that require that a regulation be effective in 280 days or less from its enactment.*

2) *As required by § 2.2-4011, also describe the nature of the emergency and of the necessity for this regulatory change. In addition, delineate any potential issues that may need to be addressed as part of this regulatory change.*

3) *For changes in response to federal mandates, indicate the extent of discretion related to the proposed regulatory changes, the rationale for the changes, and briefly indicate how the federal mandate aligns with the best interest of public welfare.*

1) In accordance with the provisions of § 2.2-4011(B) of the Code of Virginia, this rulemaking is an emergency situation as Virginia statutory law requires that the Board undertake a rulemaking.

   Chapter 1029 of the 2026 Acts of Assembly (SB 803) provides:

   > 1. That the Real Estate Board and the Fair Housing Board shall promulgate regulations defining (i) "quid pro quo harassment" and "hostile environment harassment" consistent with the provisions of 24 C.F.R. § 100.600, as in effect on January 1, 2026, and (ii) "prohibited interference," "coercion," and "intimidation conduct" consistent with the provisions of 24 C.F.R. § 100.400, as in effect on January 1, 2026.
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   > 2. That the Real Estate Board and the Fair Housing Board shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

2) The General Assembly's mandate requires a rulemaking action to make the changes to the regulation to align the regulation with applicable provisions of federal regulation in 24 CFR Part 100 that address *quid pro quo* harassment and hostile environment harassment.

   Potential issues that may need to be addressed include (i) ensuring the regulation remains consistent with the VFHL and agency practice in interpreting and implementing the VFHL; and (ii) ensuring the regulation is consistent with applicable federal law and regulation, to include ensuring that administration of VFHL continues to meet the federal certification requirements established by HUD in 24 CFR Part 115[1] for substantially equivalent fair housing enforcement agencies.

3) This regulatory change is not in response to a federal mandate.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts and Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The promulgating agencies are the (i) Real Estate Board; and (ii) Fair Housing Board.

Section 36-96.8 of the Code of Virginia provides:

> 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.

[1] Under 42 USC § 3610(f) and as implemented by this HUD regulation, HUD is required to refer housing discrimination complaints to state or local agencies whose law, procedures, available remedies, and judicial review are "substantially equivalent" (but not necessarily identical) to the rights and protections provided for under the federal Fair Housing Act. This regulation also allows for state and local agencies to receive federal funding to support local enforcement of fair housing laws.

> 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.

In addition, § 54.1-2344(D) of the Code of Virginia provides for the administration and enforcement of the Virginia Fair Housing Law, and states, in part:

> The [Fair Housing Board] shall be responsible for the administration and enforcement of the Fair Housing Law. However, the Board shall have no authority with respect to any of the following respondents who have allegedly violated, or who have in fact violated, the Fair Housing Law: (i) 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 or (ii) a property owner or his agent or principal, who has engaged a real estate licensee to perform real estate activities within the purview of Chapter 21 (§ 54.1-2100 et seq.), which licensee has also been charged with a violation of the Fair Housing Law in the same case. In no event shall the jurisdiction be split between the Real Estate Board and the Board on the same such case.

Further, Chapter 1029 of the 2026 Acts of Assembly directs the Real Estate Board and the Fair Housing Board to promulgate regulations to implement the provisions of the legislation.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) prohibits discrimination in the availability and enjoyment of housing and housing-related services, facilities, and transactions based on the protected classes of race, color, national origin, religion, sex, disability, and familial status.[2] This includes prohibiting discrimination in (i) the sale or rental of housing; (ii) residential real estate-related transactions; and (iii) the provision of brokerage services. Prohibited discriminatory actions include (i) making discriminatory statements; (ii) refusing to rent or sell; (iii) denying access to services; (iv) setting different terms or conditions; (v) discriminating in residential real estate-related transactions; and (vi) retaliating. Under applicable provisions of the federal Fair Housing Act, the Secretary of HUD has promulgated a federal fair housing regulation (24 CFR Part 100) that provides HUD's interpretation of the coverage of the federal Fair Housing Act regarding discrimination related to the sale or rental of dwellings, the provision of services in connection therewith, and the availability of residential real estate-related transactions.

Chapter 5.1 of Title 36 of the Code of Virginia is the VFHL. Section 36-96.1 of the VFHL provides for Virginia's fair housing policy and states, in part:

> 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, source of funds, sexual orientation, gender identity, military status, or disability,[3] 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

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[2] Refer to 42 USC §§ 3601 et seq.

[3] The VFHL includes "elderliness," "source of funds," "sexual orientation," "gender identity," and "military status" as protected classes in addition to those covered under the federal Fair Housing Act.

> be protected and ensured. 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.

The General Assembly has charged the Boards with responsibility for administering and enforcing the VFHL. The Real Estate Board does so with respect to real estate licensees or their agents or employees who have allegedly violated or have violated the VFHL. The Fair Housing Board does so with respect to all others who have allegedly violated or violated the VHFL. The Fair Housing Regulations (18VAC135-50) provide the Boards' "…interpretation of the coverage of the [VFHL] regarding discrimination related to the sale or rental of dwellings, the provision of services in connection therewith, the availability of residential real estate-related transactions, or any other discriminatory conduct prohibited by the [VFHL]." The Boards' regulation is largely modeled on the federal fair housing regulation, including describing specific actions or conduct that violate the VFHL.

In 2016, the federal fair housing regulation was amended to address the legal doctrines of *quid pro quo* harassment and hostile environment harassment, which over time federal courts have used to determine violations of federal civil rights laws, as they would be applicable to matters under the federal Fair Housing Act. Amendments to the federal fair housing regulation included (i) formalizing definitions of "*quid pro quo* harassment" and "hostile environment harassment" under the federal Fair Housing Act; (ii) formalizing standards for evaluating claims of *quid pro quo* and hostile environment harassment; (iii) adding descriptions of prohibited *quid pro quo* and hostile environment harassment to the federal fair housing regulations; and (iv) identifying traditional principles of direct and vicarious liability applicable to all discriminatory practices under the federal Fair Housing Act, including *quid pro quo* and hostile environment harassment.[4]

Virginia courts recognize harassment as a type of discrimination under VFHL. Allegations of harassment can be evaluated under the theories of *quid pro quo* harassment and hostile environment harassment. However, these theories of harassment are not expressly provided for in the VFHL or the Boards' regulation. Based on the meaning and intent of Chapter 1029 of the 2026 Acts of Assembly, this regulation will align applicable provisions of the Boards' regulation to be consistent federal standards regarding harassment discrimination, would allow courts and DPOR to recognize harassment under the VFHL, and should make it easier for individuals to raise harassment as an allegation under the VFHL.

In accordance with the legislation, this regulatory action will provide for an emergency regulation to take effect. This regulatory action will also propose a permanent replacement regulation. As the permanent regulation is developed, the Boards' will need to address, at minimum, whether the proposed replacement regulation is consistent with applicable federal regulation as contemplated by the legislation. However, this issue is not inclusive of all potential issues that may need to be addressed during development of the regulation.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The regulatory change will amend the current regulation to:

- Add a new section of regulation that provides definitions for "*quid pro quo* harassment" and "hostile environment harassment" that are consistent with 24 CFR § 100.600 as required by Chapter 1029 of the 2026 Acts of Assembly.

[4] Refer to HUD final rule "Quid Pro Quo and Hostile Environment Harassment and Liability for Discriminatory Housing Practices Under the Fair Housing Act" published in the *Federal Register*, Volume 81, No. 178 on September 14, 2016. The federal final rule became effective October 14, 2016.

- Revise 18VAC135-50-220, which provides for the Boards' interpretation of interference, coercion, and intimidation, so that these provisions are consistent with 24 CFR § 100.400 as required by Chapter 1029 of the 2026 Acts of Assembly.
- Revise sections describing prohibited actions constituting (i) an unlawful refusal to sell or rent or negotiate for sale or rental of dwellings; (ii) discrimination in terms, conditions, and privileges in services and facilities; (iii) discriminatory representations on the availability of dwellings; (iv) discrimination in the provision of brokerage services; (v) discrimination in the making of loans and in the provision of other financial assistance; (vi) discrimination in the terms and conditions for making available loans and other financial assistance; and (vii) unlawful practices in the selling, broker, or appraising of real property to address unlawful harassment that would violate the VFHL so that these sections are consistent with federal fair housing regulations' treatment of prohibited harassment in housing.
- Add a new section that expressly aligns liability standards under VFHL with the current federal fair housing regulation.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantage of this regulatory change to the public, the agency, and the Commonwealth is that it will provide clear regulatory language, ensuring that renters, homebuyers, landlords, home sellers, and others better understand their rights, responsibilities, and standards under current law related to *quid pro quo* and hostile environment harassment as types of harassment under the VFHL. This regulation will also enhance the ability of DPOR and the Office of Attorney General to promote compliance with the VFHL and, where necessary, bring alleged violations of the VFHL to court. An additional advantage to the agency and the Commonwealth is that the regulatory change will bring the Boards' regulation more into express alignment with the current federal fair housing regulations, providing further clarity to the regulated community and avoiding confusion.

No disadvantages to the public, the agency, or the Commonwealth have been identified. This emergency regulation reflects, rights, responsibilities, and standards that already apply under the federal Fair Housing Act and prohibited under the VFHL as interpreted and applied by the agency and courts. Accordingly, the regulatory change will not impose any additional burdens on regulated parties covered by the VFHL and the regulation, such as real estate professionals and those who are in the business or activity of selling or renting dwellings.

No other pertinent matters of interest have been identified.

Alternatives to Regulation

Consistent with §§ 2.2-4007.04 and 2.2-4007.1 B of the Code of Virginia: for any regulatory change that affects small businesses, describe:

1. *Any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change; and*

2. *Any less intrusive or less costly alternative methods of achieving the purpose of the regulatory change.*

There are no alternatives to the regulatory change; it is mandated by Chapter 1029 of the 2026 Acts of the Assembly.

Periodic Review and Small Business Impact Review Announcement

If you are using this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and EO 17), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the paragraph below. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Real Estate Board and Fair Housing Board are providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: https://townhall.virginia.gov.

Comments may also be submitted by mail, email or fax to:

Anika Coleman
Executive Director
9960 Mayland Drive
Perimeter Center, Suite 400
Richmond, VA 23233
Email: reboard@dpor.virginia.gov
Fax: (866) 826-8863

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (https://townhall.virginia.gov) and on the Commonwealth Calendar website (https://commonwealthcalendar.virginia.gov/). Both oral and written comments may be submitted at that time.

Detail of Changes

List all regulatory changes and the consequences of the changes. For any applicable table:

1) *Enter the current Chapter and Section number. If the existing VAC Chapter(s) or sections are being repealed and replaced, include both the current and the new number for each current and replacement section.*
2) *Provide a summary explanation of the current requirements and what they mean. **DO NOT** quote the text of the current regulation.*
3) *Provide a summary explanation of the new requirements and what they mean. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. **DO NOT** quote the text of the new regulation.*

*Use all tables that apply **but delete tables that are not used.***

Table 1: Amending or Repealing Existing VAC Chapter(s)
If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the emergency regulation.

Current (and New) Chapter - Section number	SUMMARIZE (do not quote) current requirements in the VAC	Change, intent, rationale, and likely impact of new requirements
50-65	No current requirements.	This new section expressly aligns liability standards for discriminatory housing practices under the VFHL with existing federal standards. The provisions of this new section are modeled on, and consistent with, the equivalent provisions of federal regulation in 24 CFR § 100.7 (2016). A person is directly liable for: • Their own conduct which results in a discriminatory housing practice. • Failing to take prompt action to correct and end a discriminatory housing practice by that person's employee or agent where the person knew or should have known of the discriminatory conduct. • Failing to take prompt action to correct and end a discriminatory housing practice by a third-party where the person knew or should have known of the discriminatory conduct and had the power to correct it. A person's power to take prompt action to correct and end discriminatory conduct by a third-party depends upon the extent of the person's control or any other legal responsibility the person may have with respect to the conduct of the third-party. A person is vicariously (indirectly) liable for a discriminatory housing practice by the person's

		agent or employee, regardless of whether the person knew or should have known of the conduct that resulted in a discriminatory housing practice, consistent with the law of agency.[5] The new section provides that for purposes of determining liability, prompt action to correct and end the discriminatory housing practice may not include any action that penalizes or harms the aggrieved person, such as eviction of the aggrieved person. This change is intended to align the regulation with current federal regulation, and to codify how the Commonwealth interprets the law regarding liability for discriminatory housing practices that violate the VFHL. The rule is consistent with established legal principles and does not subject persons to enhanced liability for violations of the VFHL. Accordingly, no additional impact to regulated parties is anticipated.
50-80	This section describes prohibited actions that constitute an unlawful refusal to sell or rent or to negotiate for the sale or rental which would violate § 36-96.3 of the VFHL. Such actions include: • Failing to accept or consider a *bona fide* offer based on a person's protected class. • Refusing to sell or rent a dwelling to, or negotiate for the sale or rental of, a dwelling based on a person's protected class. • Imposing different sales prices or rental charges for the sale or rental of a dwelling upon any person based on the person's protected class. • Using different qualification criteria or	The changes to this section are modeled on, and consistent with, the equivalent provisions of federal regulation in 24 CFR § 100.60 (2016). The section is revised to include the following prohibited actions: • Conditioning the availability of a dwelling, including the price, qualification criteria, or standards or procedures for securing the dwelling on a person's response to harassment based on the person's protected class. • Subjecting a person to harassment based on the person's protected class that causes the person to vacate a dwelling or abandon efforts to secure the dwelling. The new provisions of this section expressly codify how the Commonwealth interprets the VFHL pertaining to harassment, clearly explaining conduct that is considered harassment that constitutes an unlawful refusal to sell or rent or to negotiate for sale or rental under the VFHL. This type of discrimination is already prohibited by federal and Virginia law. Federal regulations have expressly reflected that prohibition for some time;

[5] Agency law is a common law doctrine controlling relationships between agents and principals. A principal-agent relationship is created when the agent is given authority to act on behalf of the principal. An agreement made by an agent is binding on the principal so long as the agreement was within the authority actually granted to the agent or reasonably perceived by a third party. Source: Legal Information Institute. "agency" (Webpage.) Cornell Law School. https://www.law.cornell.edu/wex/agency (Accessed October 16, 2026).

	applications or sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis, or sale or rental approval procedures or other requirements based on a person's protected class. • Evicting tenants based on the tenant's protected class, or the protected class of the tenant's guest.	however, the Boards' regulation does not explicitly include it. Providing clear regulatory language will provide greater clarity to renters, homebuyers, landlords, and realtors, as well as to courts. This change is intended to align the regulation with current federal regulations and clarify existing Virginia law. Accordingly, no additional impact to regulated parties is anticipated.
50-90	This section describes prohibited actions that constitute discrimination in terms, conditions, and privileges in services and facilities which would violate § 36-96.3 of the VFHL. Such actions include: • Using different provisions in leases, such as rental charges, security deposits, or lease terms, or in contracts of sale, such as payment and closing requirements, based on a person's protected class. • Failing or delaying maintenance or repairs of dwellings based on a person's protected class. • Failing to process an offer for sale or rental of a dwelling or communicate an offer accurately based on a person's protected class. • Limiting the use of privileges, services, or facilities associated with a dwelling based on a person's protected class or protected class of a	The changes to this section are modeled on, and consistent with, the equivalent provisions of federal regulation in 24 CFR § 100.65 (2016). The section is revised to include the following prohibited actions: • Conditioning the terms, conditions, or privileges relating to the sale or rental of a dwelling, or denying or limiting services or facilities in connection with the sale or rental of a dwelling on a person's response to harassment based on the person's protected class. • Subjecting a person to harassment based on the person's protected class that has the effect of imposing different terms, conditions, or privileges relating to the sale or rental of a dwelling or denying or limiting services or facilities in connection with the sale or rental of a dwelling. The new provisions of this section expressly codify how the Commonwealth interprets the VFHL pertaining to harassment, clearly explaining conduct that is considered harassment that constitutes discrimination in terms, conditions, and privileges and in services and facilities under the VFHL. This type of discrimination is already prohibited by federal and Virginia law. Federal regulations have expressly reflected that prohibition for some time; however, the Boards' regulation does not explicitly include it. Providing clear regulatory language will provide greater clarity to renters, homebuyers, landlords, and realtors, as well as to courts. This change is intended to align the regulation with current federal regulations and clarify existing

	person associated with the owner or tenant. • Denying or limiting services or facilities in connection with the sale or rental of a dwelling because a person did not provide sexual favors.	Virginia law. Accordingly, no additional impact to regulated parties is anticipated.
50-120	This section describes prohibited actions that would constitute discriminatory representations on the availability of dwellings which would violate § 36-96.3 of the VFHL. The section provides that it is unlawful to provide inaccurate or untrue information about the availability of a dwelling for sale or rental based on a person's protected class. This includes: • Indicating through words or conduct that an available dwelling has been sold or rented based on the person's protected class. • Representing that covenants or other deed, trust, or lease provisions that purport to restrict the sale or rental of dwellings preclude the sale or rental of a dwelling to a person based on the person's protected class. • Enforcing covenants or other deed, trust, or lease provisions that preclude the sale or rental of a dwelling to any person based on the person's protected class. • Limiting information by word or conduct regarding suitably priced available dwellings	The change to this section is modeled on, and consistent with, the equivalent provision of federal regulation in 24 CFR § 100.80. The section is revised to include the following prohibited action: • Representing to an applicant that a unit is unavailable because of the applicant's response to a request for a sexual favor or other harassment based on the person's protected class. The new provision of this section expressly codifies how the Commonwealth interprets the VFHL pertaining to harassment, clearly explaining conduct that is considered harassment that constitutes a discriminatory representation on the availability of a dwelling under the VFHL. This type of discrimination is already prohibited by federal and Virginia law. Federal regulations have expressly reflected that prohibition for some time; however, the Boards' regulation does not explicitly include it. Providing clear regulatory language will provide greater clarity to renters, homebuyers, landlords, and realtors, as well as to courts. This change is intended to align the regulation with current federal regulations and clarify existing Virginia law. Accordingly, no additional impact to regulated parties is anticipated.

	based on a person's protected class. • Providing false or inaccurate information regarding the availability of a dwelling for sale or rental to any person based on the person's protected class.	
50-140	This section describes prohibited actions that would constitute discrimination in the provision of brokerage services that would violate § 36-96.3 of the VFHL. Such actions include: • Setting different fees for access to or membership in MLS based on a person's protected class. • Denying or limiting benefits accruing to members in a real estate broker's organization based on a person's protected class. • Imposing different standards or criteria for membership in a real estate sale, rental, or exchange organization based on a person's protected class. • Establishing geographic boundaries or office location or residence requirements for access to or membership or participation in any MLS, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings based on a person's protected class.	The changes to this section are modeled on, and consistent with, the equivalent provisions of federal regulation in 24 CFR § 100.90 (2016). The section is revised to include the following prohibited actions: • Conditioning access to brokerage services on a person's response to harassment based on a person's protected class. • Subjecting a person to harassment based on a person's protected class that has the effect of discouraging or denying access to brokerage services. The new provisions of this section expressly codify how the Commonwealth interprets the VFHL pertaining to harassment, clearly explaining conduct that is considered harassment that constitutes discrimination in the provision of brokerage services under the VFHL. This type of discrimination is already prohibited by federal and Virginia law. Federal regulations have expressly reflected that prohibition for some time; however, the Boards' regulation does not explicitly include it. Providing clear regulatory language will provide greater clarity to renters, homebuyers, landlords, and realtors, as well as to courts. This change is intended to align the regulation with current federal regulations and clarify existing Virginia law. Accordingly, no additional impact to regulated parties is anticipated.
50-160	This section describes prohibited actions that would constitute discrimination in	The changes to this section are modeled on, and consistent with, the equivalent provisions of federal regulation in 24 CFR § 100.130 (2016).

	the making of loans and in the provision of other financial assistance that would violate § 36-96.4 of the VFHL. The section provides that it is unlawful for any person whose business includes engaging in real estate-related transactions to discriminate against any person in making available loans or other financial assistance for a dwelling or to be secured by a dwelling based on a person's protected class. This includes: • Failing or refusing to provide information regarding (i) the availability of loans or other financial assistance; (ii) application requirements; or (iii) procedures or standards for the review and approval of loans or assistance to any person based on the person's protected class. • Providing information that is inaccurate or different from that provided to others based on a person's protected class.	The section is revised to include the following prohibited actions: • Conditioning an aspect or terms or conditions of a loan or other financial assistance to be provided with a dwelling on a person's response to harassment based on the person's protected class. • Subjecting a person to harassment based on a person's protected class that has the effect of imposing different terms or conditions for the availability of loans or other financial assistance. The new provisions of this section expressly codify how the Commonwealth interprets the VFHL pertaining to harassment, clearly explaining conduct that is considered harassment that constitutes discrimination in the terms and conditions for making available loans or other financial assistance. This type of discrimination is already prohibited by federal and Virginia law. Federal regulations have expressly reflected that prohibition for some time; however, the Boards' regulation does not explicitly include it. Providing clear regulatory language will provide greater clarity to renters, homebuyers, landlords, lenders, and realtors, as well as to courts. This change is intended to align the regulation with current federal regulations and clarify existing Virginia law. Accordingly, no additional impact to regulated parties is anticipated.
50-180	This section describes prohibited actions that would constitute discrimination in the terms and conditions for making available loans and other financial assistance that would violate § 36-96.4 of the VFHL. The section provides that it is unlawful for any person or entity engaged in the making of loans or in the provision of other financial assistance relating to the purchase,	The changes to this section are modeled on, and consistent with, the equivalent provisions of federal regulation in 24 CFR § 100.130 (2016). The section is revised to include the following prohibited actions: • Conditioning an aspect or terms or conditions of a loan or other financial assistance to be provided with a dwelling on a person's response to harassment based on the person's protected class. • Subjecting a person to harassment based on a person's protected class that has the effect of

	construction, improvement, repair, or maintenance of dwellings or which are secured by residential real estate to impose different terms or conditions for the availability of loans or other financial assistance based on a person's protected class. This includes: • Using different policies, practices, or procedures in evaluating or determining credit worthiness of any person in connection with the provision of any loan or other financial assistance for a dwelling or that is secured by residential real estate based on the person's protected class. • Determining the type of loan or other financial assistance to be provided with respect to a dwelling or fixing the amount, interest rate, duration, or other terms for a loan or other financial assistance for a dwelling that is secured by residential real estate based on the person's protected class.	imposing different terms or conditions for the availability of loans or other financial assistance. The new provisions of this section expressly codify how the Commonwealth interprets the VFHL pertaining to harassment, clearly explaining conduct that is considered harassment that constitutes discrimination in the terms and conditions for making available loans or other financial assistance. This type of discrimination is already prohibited by federal and Virginia law. Federal regulations have expressly reflected that prohibition for some time; however, the Boards' regulation does not explicitly include it. Providing clear regulatory language will provide greater clarity to renters, homebuyers, landlords, lenders, and realtors, as well as to courts. This change is intended to align the regulation with current federal regulations and clarify existing Virginia law. Accordingly, no additional impact to regulated parties is anticipated.
50-190	This section describes unlawful practices in the selling, broker, or appraising of real property that would violate § 36-96.4 of the VFHL. The section provides that is unlawful for any person or other entity whose business includes engaging in the selling, brokering, or appraising of residential real property to discriminate against any person in making available or performing these services based on a person's	The change to this section is modeled on, and consistent with, the equivalent provisions of federal regulation in 24 CFR § 100.135 (2016). The section is revised to include the following prohibited action: • Conditioning the terms of an appraisal of residential real property in connection with the sale, rental, or financing of a dwelling on a person's response to harassment based on the person's protected class. The new provision of this section expressly codifies how the Commonwealth interprets the VFHL pertaining to harassment, clearly explaining conduct that is considered harassment that constitutes an

	protected class. This includes: • Using an appraisal of residential real property in connection with the sale, rental, or financing of a dwelling where the person knows, or reasonably should know, that the appraisal improperly takes into consideration a protected class.	unlawful practice in the selling, brokering, or appraising of residential real property. This type of discrimination is already prohibited by federal and Virginia law. Federal regulations have expressly reflected that prohibition for some time; however, the Boards' regulation does not explicitly include it. Providing clear regulatory language will provide greater clarity to renters, homebuyers, landlords, appraisers, and realtors, as well as to courts. This change is intended to align the regulation with current federal regulations and clarify existing Virginia law. Accordingly, no additional impact to regulated parties is anticipated.
50-220	This section provides the Boards' interpretation of conduct that constitutes interference, coercion, or intimidation which violates § 36-96.5 of the VFHL. The section provides that it is unlawful to coerce, intimidate, threaten, or interfere with any person (i) in the exercise or enjoyment of any right granted or protected under the VFHL and the regulation; (ii) on account of a person's having exercised or enjoyed any right granted or protected under the VFHL and the regulation; or (iii) on account of a person's having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected under the VFHL or the regulation. Unlawful conduct includes: • Coercing a person, either orally, in writing, or by other means, to deny or limit benefits provided to that person in connection with the sale or rental of a dwelling or in connection with a residential real estate-related transaction	The change to this section is modeled on, and consistent with, the equivalent provision of federal regulation in 24 CFR § 100.400 (2016). The section is revised to include the following prohibited action: • Retaliating against any person because that person reported a discriminatory housing practice to a housing provider or other authority. The new provision of this section expressly codifies how the Commonwealth interprets the VFHL pertaining to interference, coercion, or intimidation clearly specifying conduct that constitutes interference, coercion, or intimidation. The change amends the regulation so that provisions addressing prohibited interference, coercion, and intimidation conduct are consistent with 24 CFR § 100.400 as required by Chapter 1029 of the 2026 Acts of Assembly. This change is intended to align the regulation with current federal regulations and clarify existing Virginia law. Accordingly, no additional impact to regulated parties is anticipated.

	based on a person's protected class. • Threatening, intimidating, or interfering with persons in their enjoyment of a dwelling based on the persons' protected class, or the protected class of their visitors or associates. • Threatening an employee or agent with dismissal or an adverse employment action, or taking an adverse employment action, for any effort to assist a person seeking access to the sale or rental of a dwelling or seeking access to any residential real estate-related transaction based on the protected class of that person or any person associated with that person. • Intimidating or threatening any person because that person is engaging in activities designed to make other persons aware of, or encouraging other persons to exercise, rights granted or protected under the VFHL and the regulation. • Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the VFHL.	
50-225	No current requirements.	The provisions of this new section are modeled on, and consistent with, equivalent provisions of federal regulation in 24 CFR § 100.600 (2016). This new section codifies the meaning of *quid pro quo* harassment and hostile environment

		harassment, which are unlawful under §§ 36-96.3 through 36-96.5 of the VFHL. The section provides definitions for the terms "*quid pro quo* harassment" and "hostile environment harassment." These definitions are consistent with the meanings provided to these terms in 24 CFR § 100.600 (2016). The section provides that harassment includes written, verbal, or other conduct and does not require physical contact. In addition, a single incident of harassment based on a person's protected class may constitute a discriminatory housing practice where the incident is severe enough to create a hostile environment or evidence of a *quid pro quo*. The section stipulates that whether hostile environment harassment exists depends upon the totality of the circumstances[6] and provides guidance regarding how the standard should be applied, consistent with applicable case law, guidance, and federal regulations. This includes: • Delineation of the factors to be considered, such as the nature of the conduct, context in which it occurred, and the relationships of the persons involved. • No requirement for psychological or physical harm to be demonstrated; however, evidence of such harm may be relevant in determining whether a hostile environment existed and determining damages to which an aggrieved person may be entitled. • A requirement that the severity or pervasiveness of the unwelcome conduct be evaluated from the perspective of a reasonable person in the aggrieved person's position. The section also addresses the applicability of affirmative defenses to an employer's vicarious (indirect) liability. Courts have developed an affirmative defense to certain sexual harassment complaints against supervisors in the federal Title VII (employment discrimination) context where employers can avoid vicarious liability if a victim has failed to exhaust internal complaint procedures and

[6] Totality of circumstances is a legal standard in which a court or judge will consider balancing the circumstances and contributing factors of the situation rather than use a strict bright-line. Totality of the circumstances is much more flexible than a bright-line rule and can result in conflicting outcomes between cases in which the surrounding circumstances differ. Source: Legal Information Institute. "totality of circumstances" (Webpage.) Cornell Law School. https://www.law.cornell.edu/wex/totality_of_circumstances (Accessed October 7, 2026).

		remedies. This section mirrors the federal regulation's statement that this affirmative defense is not available in the federal fair housing act, ensuring that victims of harassment in the housing context are not required to exhaust internal procedures which could expose the victim to retaliation. No court has extended Title VII's limited and judicially created affirmative defense to the federal fair housing act, and thus the VFHL. Therefore, this provision imposes no new obligations on parties. The change amends the regulation so that provisions addressing *quid pro quo* harassment and hostile environment harassment are consistent with 24 CFR § 100.600 as required by Chapter 1029 of the 2026 Acts of Assembly. Virginia courts recognize harassment as a type of discrimination under VFHL. Allegations of harassment can be evaluated under the theories of *quid pro quo* harassment and hostile environment harassment. However, these theories of harassment are not expressly included in the Boards' regulation. This type of discrimination is already prohibited by federal and Virginia law. Federal regulations have expressly reflected that prohibition for some time; however, the Boards' regulation does not explicitly include it. Providing clear regulatory language will provide greater clarity to renters, homebuyers, landlords, lenders, appraisers, and realtors, as well as to courts.