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Fair Housing Law - 2026

Generally, a landlord may rent or refuse to rent for any reason at all – good reason, bad reason, or no reason – as long as it is not a prohibited reason. There are exceptions to this rule. Exceptions apply if you are in a protected class covered by the Fair Housing Law.

What are the protected classes covered by the Fair Housing Law?

No one may be denied housing due to: Race, Color, Religion, National Origin, Sex, Family Status (having children under 18, or being a pregnant female), Elderliness (55 or older), Disability, Source of Funds, Sexual Orientation, Gender Identity, or Military Status. Source of funds means where your money comes from.

What are some classes <u>not</u> covered by the Fair Housing Law?

Several groups are not protected under fair housing law. For example: students, smokers, income status, poor credit, unmarried couples, and those under age 55 are not protected groups. Landlords can also refuse to rent to people who have been evicted in the past.

What housing does the Fair Housing Law cover?

Fair Housing Law applies to more than rentals. Fair housing applies to home sales, home financing, homeowners & rental insurance, and advertising about rentals & homes for sale. Fair housing prohibits landlords from refusing to rent to people in protected classes. Fair housing also makes it illegal for a landlord to discriminate against a tenant in the terms and conditions of the lease.

Housing providers may use occupancy standards. These standards should allow at least two people per bedroom. Housing providers may not dictate in which bedrooms younger children of different genders sleep. This is a parental matter.

What is source of funds discrimination?

Landlords are prohibited from refusing to rent to individuals because they receive assistance from nonprofits or the government to pay their rent. This prevents discrimination against individuals looking for housing using a Housing Choice Voucher. It also prohibits landlords from refusing rent payments from onetime assistance grants, like rent relief, or discriminating because someone is receiving short-term benefits like unemployment benefits.

Can a landlord use an income-to-rent ratio?

Only if two things are true. First, the landlord must use the same income-to rent ratio for all applicants. Second, for subsidized housing, the "rent" used in the income-to-rent ratio must be the tenant's share of the rent, not the entire rent.

May a housing provider use criminal history in deciding who to rent to?

As part of a rental application, Virginia law allows a landlord to ask about criminal convictions and to require a criminal background check of a potential tenant. Landlords can charge a fee for the criminal background check.

In 2016, the federal government (HUD) issued guidance to housing providers that the following policies usually violate fair housing:

- Excluding from housing anyone who has an arrest that didn't result in conviction.
- Excluding from housing anyone who has any type of conviction (blanket exclusion).

In addition, the following policies may violate fair housing:

- Excluding from housing using unreasonably old convictions (more than 6 years old).
- Excluding from housing using convictions with no relationship to being a good tenant.
- Refusing to consider evidence showing you will be a good tenant despite a conviction.

What are the rules about access for the disabled?

If you are renting an apartment built after March 13, 1991, it must be wheelchair accessible. If the apartment is older or is a single family dwelling, you can ask that the building be modified. The landlord may not deny this request. However, unless the housing is federally subsidized, you must pay for the changes yourself.

In addition, if you have a disability that causes you to violate your lease, you should ask the landlord in writing for a reasonable accommodation that would alleviate or modify the behavior which caused the lease violation. If you make this request, the landlord first must respond to it, and should not automatically try to evict you.

What if I have an assistance animal and my landlord prohibits pets?

Landlords cannot refuse to allow a tenant with a disability to have an assistance animal in the rental unit. An assistance animal is not a "pet." An assistance animal provides a therapeutic benefit to a person with a disability. If a landlord has a "no pets" policy, a tenant with a disability can request a reasonable accommodation to that policy. This is because the assistance animal is necessary for the tenant to have "equal use and enjoyment" of the rental property.

To have a legal right to housing with an emotional support animal you need proper documentation. This means documentation from a medical provider with whom you have an ongoing treatment relationship.

If your documentation is from a provider with whom you do not have an ongoing treatment relationship – particularly from a provider who issues these letters for a fee after an online questionnaire or a brief on-time interview – then your documentation is not adequate.

Landlords cannot require a tenant with a disability to pay a pet fee or deposit or any additional rent to keep an assistance animal. However, tenants can be held responsible for any physical damages to the dwelling caused by the assistance animal.

What should I do if I am in a protected class and am discriminated against?

If you've been subjected to housing discrimination, you have one year to file a complaint with U.S. Department of Housing & Urban Development and/or Virginia's Fair Housing Office:

US Dept. of Housing & Urban Development
Fair Housing & Equal Opportunity
100 Penn Square East, 12th Floor
Philadelphia, PA 19107
215-861-7646 or 888-799-2085

Virginia Fair Housing Office
9960 Mayland Drive, Suite 400
Richmond, VA 23233
804-367-8530 (V) & 866-480-8333 (F)
www.dpor.virginia.gov/FairHousing

You also can contact HOME for free counseling and assistance with housing discrimination:

Housing Opportunities Made Equal (H.O.M.E.)
626 East Broad Street, Suite 400
Richmond, VA. 23219
804-354-0641 (Voice) & 804-354-0690 (Fax)
help@homeofva.org (e-mail)

What happens after I file a complaint?

If you file a complaint with HUD and/or the Virginia Fair Housing Office, it will be investigated. An investigator will talk with you, the other side and any witnesses, and may review documents and records.

If the Fair Housing Office believes there was no discrimination, it will close the case. If the Fair Housing Office believes there was discrimination, it will try to settle the case. If the Fair Housing Office believes there was discrimination but cannot settle the case, it will refer the case to the Virginia Attorney General for further action. Both you and the other side will be told of this in writing. Whether or not the Fair Housing Office finds discrimination, you have at least 180 days after a determination to file a lawsuit of your own.

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