

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 987

By Senator Garcia

[Introduced February 18, 2026; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §16B-17-2, §16B-17-3, §16B-17-4, §16B-17-8, §16B-17-9, §16B-
 2 17-16, §16B-17-20, §16B-18-3, §16B-18-5, §16B-18-6, and §16B-18-7 of the Code of
 3 West Virginia, 1931, as amended, relating to unlawful discriminatory practices in
 4 categories covered by the Human Rights Act and the Fair Housing Act; prohibiting
 5 discrimination based upon age and sexual orientation, or gender identity; and defining
 6 "sexual orientation" and "gender identity".

Be it enacted by the Legislature of West Virginia:

ARTICLE 17. HUMAN RIGHTS COMMISSION.

§16B-17-2. Declaration of policy.

1 It is the public policy of the State of West Virginia to provide all of its citizens equal
 2 opportunity for employment, equal access to places of public accommodations, and equal
 3 opportunity in the sale, purchase, lease, rental and financing of housing accommodations or real
 4 property. Equal opportunity in the areas of employment and public accommodations is hereby
 5 declared to be a human right or civil right of all persons without regard to race, religion, color,
 6 national origin, ancestry, sex, age, sexual orientation, gender identity, blindness, or disability, or
 7 familial status. Equal opportunity in housing accommodations or real property is hereby declared
 8 to be a human right or civil right of all persons without regard to race, religion, color, national origin,
 9 ancestry, sex, blindness, disability, or familial status.

10 The denial of these rights to properly qualified persons by reason of race, religion, color,
 11 national origin, ancestry, sex, age, sexual orientation, gender identity, blindness, disability, or
 12 familial status is contrary to the principles of freedom and equality of opportunity and is destructive
 13 to a free and democratic society.

§16B-17-3. Definitions.

1 When used in this article:
 2 (a) The term "person" means one or more individuals, partnerships, associations,
 3 organizations, corporations, labor organizations, cooperatives, legal representatives, trustees,

4 trustees in bankruptcy, receivers, and other organized groups of persons;

5 (b) The term "commission" means the West Virginia Human Rights Commission;

6 (c) The term "director" means the executive director of the commission who reports to the
7 Inspector General;

8 (d) The term "employer" means the state, or any political subdivision thereof, and any
9 person employing 12 or more persons within the state for 20 or more calendar weeks in the
10 calendar year in which the act of discrimination allegedly took place or the preceding calendar
11 year: *Provided*, That such terms shall not be taken, understood or construed to include a private
12 club;

13 (e) The term "employee" shall not include any individual employed by his or her parents,
14 spouse or child;

15 (f) The term "labor organization" includes any organization which exists for the purpose, in
16 whole or in part, of collective bargaining or of dealing with employers concerning grievances,
17 terms or conditions of employment or for other mutual aid or protection in relation to employment;

18 (g) The term "employment agency" includes any person undertaking, with or without
19 compensation, to procure, recruit, refer or place employees. A newspaper engaged in the activity
20 of advertising in the normal course of its business shall not be deemed to be an employment
21 agency;

22 (h) The term "discriminate" or "discrimination" means to exclude from, or fail or refuse to
23 extend to, a person equal opportunities because of race, religion, color, national origin, ancestry,
24 sex, age, sexual orientation, gender identity, blindness, disability or familial status and includes to
25 separate or segregate;

26 (i) The term "unlawful discriminatory practices" includes only those practices specified in
27 §16B-17-9 of this code;

28 (j) The term "place of public accommodations" means any establishment or person, as
29 defined herein, including the state, or any political or civil subdivision thereof, which offers its

30 services, goods, facilities, or accommodations to the general public, but shall not include any
31 accommodations which are in their nature private. To the extent that any penitentiary, correctional
32 facility, detention center, regional jail or county jail is a place of public accommodation, the rights,
33 remedies and requirements provided by this article for any violation of subdivision (6), §16B-17-9
34 of this code shall not apply to any person other than: (1) Any person employed at a penitentiary,
35 correctional facility, detention center, regional jail or county jail; (2) any person employed by a law-
36 enforcement agency; or (3) any person visiting any such employee or visiting any person detained
37 in custody at such facility;

38 (k) The term "age" means the age of 40 or above;

39 (l) For the purpose of this article, a person shall be considered to be blind only if his central
40 visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity
41 is greater than 20/200 but is occasioned by a limitation in the fields of vision such that the widest
42 diameter of the visual field subtends an angle no greater than twenty degrees; and

43 (m) The term "disability" means:

44 (1) A mental or physical impairment which substantially limits one or more of such person's
45 major life activities. The term "major life activities" includes functions such as caring for one's self,
46 performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;

47 (2) A record of such impairment; or

48 (3) Being regarded as having such an impairment.

49 For the purposes of this article, this term does not include persons whose current use of or
50 addiction to alcohol or drugs prevents such persons from performing the duties of the job in
51 question or whose employment, by reason of such current alcohol or drug abuse, would
52 constitute a direct threat to property or the safety of others.

53 (n) The term "gender identity" means the actual or perceived gender-related identity,
54 expression, appearance, mannerisms, or other gender-related characteristics of an individual,
55 regardless of the individual's designated sex at birth.

56 (o) The term "sexual orientation" means heterosexuality, bisexuality, homosexuality, or
57 gender identity or expression, whether actual or perceived.

§16B-17-4. Powers and objectives.

1 The commission shall have the power and authority and shall perform the functions and
2 services as in this article prescribed and as otherwise provided by law. The commission shall
3 encourage and endeavor to bring about mutual understanding and respect among all racial,
4 religious and ethnic groups within the state and shall strive to eliminate all discrimination in
5 employment and places of public accommodations by virtue of race, religion, color, national origin,
6 ancestry, sex, age, sexual orientation, gender identity, blindness or handicap and shall strive to
7 eliminate all discrimination in the sale, purchase, lease, rental or financing of housing and other
8 real property by virtue of race, religion, color, national origin, ancestry, sex, age, sexual orientation,
9 gender identity, blindness, handicap or familial status.

§16B-17-8. Commission powers; functions; services.

1 The commission is hereby authorized and empowered:

2 (a) To cooperate and work with federal, state and local government officers, units, activities
3 and agencies in the promotion and attainment of more harmonious understanding and greater
4 equality of rights between and among all racial, religious and ethnic groups in this state;

5 (b) To enlist the cooperation of racial, religious and ethnic units, community and civic
6 organizations, industrial and labor organizations and other identifiable groups of the state in
7 programs and campaigns devoted to the advancement of tolerance, understanding and the equal
8 protection of the laws of all groups and peoples;

9 (c) To receive, investigate and pass upon complaints alleging discrimination in
10 employment or places of public accommodations, because of race, religion, color, national origin,
11 ancestry, sex, age, sexual orientation, gender identity, blindness or disability, and complaints
12 alleging discrimination in the sale, purchase, lease, rental and financing of housing
13 accommodations or real property because of race, religion, color, national origin, ancestry, sex,

14 age, sexual orientation, gender identity, blindness, disability or familial status, and to initiate its
15 own consideration of any situations, circumstances or problems, including therein any racial,
16 religious or ethnic group tensions, prejudice, disorder or discrimination reported or existing within
17 the state relating to employment, places of public accommodations, housing accommodations and
18 real property;

19 (d) To hold and conduct public and private hearings, in the county where the respondent
20 resides or transacts business or where agreed to by the parties or where the acts complained of
21 occurred, on complaints, matters and questions before the commission and, in connection
22 therewith, relating to discrimination in employment or places of public accommodations, housing
23 accommodations or real property and during the investigation of any formal complaint before the
24 commission relating to employment, places of public accommodations, housing accommodations
25 or real property to:

26 (1) Issue subpoenas and subpoenas duces tecum upon the approval of the executive
27 director or the chairperson of the commission; administer oaths; take the testimony of any person
28 under oath; and make reimbursement for travel and other reasonable and necessary expenses in
29 connection with such attendance;

30 (2) Furnish copies of public hearing records to parties involved therein upon their payment
31 of the reasonable costs thereof to the commission;

32 (3) Delegate to an administrative law judge who shall be an attorney, duly licensed to
33 practice law in West Virginia, the power and authority to hold and conduct hearings, as herein
34 provided, to determine all questions of fact and law presented during the hearing and to render a
35 final decision on the merits of the complaint, subject to the review of the commission as hereinafter
36 set forth.

37 Any respondent or complainant who shall feel aggrieved at any final action of an
38 administrative law judge shall file a written notice of appeal with the commission by serving such
39 notice on the executive director and upon all other parties within 30 days after receipt of the

40 administrative law judge's decision. The commission shall limit its review upon such appeals to
41 whether the administrative law judge's decision is:

42 (A) In conformity with the Constitution and the laws of the state and the United States;

43 (B) Within the commission's statutory jurisdiction or authority;

44 (C) Made in accordance with procedures required by law or established by appropriate
45 rules of the commission;

46 (D) Supported by substantial evidence on the whole record; or

47 (E) Not arbitrary, capricious or characterized by abuse of discretion or clearly unwarranted
48 exercise of discretion.

49 (4) To enter into conciliation agreements and consent orders.

50 Each conciliation agreement shall include provisions requiring the respondent to refrain
51 from the commission of unlawful discriminatory practices in the future and shall contain such
52 further provisions as may be agreed upon by the commission and the respondent.

53 If the respondent and the commission agree upon conciliation terms, the commission shall
54 serve upon the complainant a copy of the proposed conciliation agreement. If the complainant
55 agrees to the terms of the agreement or fails to object to such terms within 15 days after its service
56 upon him or her, the commission shall issue an order embodying such conciliation agreement. If
57 the complainant objects to the agreement, he or she shall serve a specification of his or her
58 objections upon the commission within such period. Unless such objections are met or withdrawn
59 within 10 days after service thereof, the commission shall notice the complaint for hearing.

60 Notwithstanding any other provisions of this section, the commission may, where it finds
61 the terms of the conciliation agreement to be in the public interest, execute such agreement, and
62 limit the hearing to the objections of the complainant.

63 If a conciliation agreement is entered into, the commission shall serve a copy of the order
64 embodying such agreement upon all parties to the proceeding.

65 Not later than one year from the date of a conciliation agreement, the commission shall

66 investigate whether the respondent is complying with the terms of such agreement. Upon a finding
67 of noncompliance, the commission shall take appropriate action to assure compliance;

68 (5) To apply to the circuit court of the county where the respondent resides or transacts
69 business for enforcement of any conciliation agreement or consent order by seeking specific
70 performance of such agreement or consent order;

71 (6) To issue cease and desist orders against any person found, after a public hearing, to
72 have violated the provisions of this article or the rules of the commission;

73 (7) To apply to the circuit court of the county where the respondent resides or transacts
74 business for an order enforcing any lawful cease and desist order issued by the commission;

75 (e) To recommend to the Governor and Legislature policies, procedures, practices and
76 legislation in matters and questions affecting human rights;

77 (f) To delegate to its executive director such powers, duties and functions as may be
78 necessary and expedient in carrying out the objectives and purposes of this article who shall report
79 to the Inspector General;

80 (g) To prepare a written report on its work, functions and services for each year ending on
81 June 30 and to deliver copies thereof to the Governor on or before December 1, next thereafter;

82 (h) To do all other acts and deeds necessary and proper to carry out and accomplish
83 effectively the objects, functions and services contemplated by the provisions of this article,
84 including the promulgation of legislative rules in accordance with the provisions of §29A-3-1 *et*
85 *seq.* of this code, implementing the powers and authority hereby vested in the commission;

86 (i) To create such advisory agencies and conciliation councils, local, regional or statewide,
87 as in its judgment will aid in effectuating the purposes of this article, to study the problems of
88 discrimination in all or specific fields or instances of discrimination because of race, religion, color,
89 national origin, ancestry, sex, age, sexual orientation, gender identity, blindness, disability or
90 familial status; to foster, through community effort or otherwise, goodwill, cooperation and
91 conciliation among the groups and elements of the population of this state, and to make

92 recommendations to the commission for the development of policies and procedures, and for
 93 programs of formal and informal education, which the commission may recommend to the
 94 appropriate state agency. Such advisory agencies and conciliation councils shall be composed of
 95 representative citizens serving without pay. The commission may itself make the studies and
 96 perform the acts authorized by this subdivision. It may, by voluntary conferences with parties in
 97 interest, endeavor by conciliation and persuasion to eliminate discrimination in all the stated fields
 98 and to foster goodwill and cooperation among all elements of the population of the state;

99 (j) To accept contributions from any person to assist in the effectuation of the purposes of
 100 this section and to seek and enlist the cooperation of private, charitable, religious, labor, civic and
 101 benevolent organizations for the purposes of this section;

102 (k) To issue such publications and such results of investigation and research as in its
 103 judgment will tend to promote goodwill and minimize or eliminate discrimination: *Provided*, That
 104 the identity of the parties involved shall not be disclosed.

§16B-17-9. Unlawful discriminatory practices.

1 It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational
 2 qualification, or except where based upon applicable security regulations established by the
 3 United States or the State of West Virginia or its agencies or political subdivisions:

4 (1) For any employer to discriminate against an individual with respect to compensation,
 5 hire, tenure, terms, conditions, or privileges of employment if the individual is able and competent
 6 to perform the services required even if such individual is blind or disabled: *Provided*, That it shall
 7 not be an unlawful discriminatory practice for an employer to observe the provisions of any bona
 8 fide pension, retirement, group or employee insurance or welfare benefit plan or system not
 9 adopted as a subterfuge to evade the provisions of this subdivision: *Provided further*, That an
 10 employer may grant preference in hiring to a military spouse or to a veteran or disabled veteran in
 11 accordance with the provisions of §16B-17-9a of this code without violating the provisions of this
 12 article. For purposes of this subdivision, "military spouse" means the husband or wife of a member

13 of the Armed Forces who, as determined by the United States Secretary of Defense, is performing
14 active duty pursuant to orders that authorize a permanent change of station move, if such husband
15 or wife relocates to the member's new permanent duty station.

16 (2) For any employer, employment agency, or labor organization, prior to the employment
17 or admission to membership, to: (A) Elicit any information or make or keep a record of or use any
18 form of application or application blank containing questions or entries concerning the race,
19 religion, color, national origin, ancestry, sex, sexual orientation, gender identity, familial status, or
20 age of any applicant for employment or membership; (B) Print or publish or cause to be printed or
21 published any notice or advertisement relating to employment or membership indicating any
22 preference, limitation, specifications, or discrimination based upon race, religion, color, national
23 origin, ancestry, sex, sexual orientation, gender identity, familial status, disability, or age; or (C)
24 Deny or limit, through a quota system, employment or membership because of race, religion,
25 color, national origin, ancestry, sex, sexual orientation, gender identity, familial status, age,
26 blindness, or disability;

27 (3) For any labor organization because of race, religion, color, national origin, ancestry,
28 sex, age, blindness, or disability of any individual to deny full and equal membership rights to any
29 individual or otherwise to discriminate against such individual with respect to hire, tenure, terms,
30 conditions, or privileges of employment or any other matter, directly or indirectly, related to
31 employment;

32 (4) For an employer, labor organization, employment agency, or any joint labor-
33 management committee controlling apprentice training programs to:

34 (A) Select individuals for an apprentice training program registered with the State of West
35 Virginia on any basis other than their qualifications as determined by objective criteria which
36 permit review;

37 (B) Discriminate against any individual with respect to his or her right to be admitted to or
38 participate in a guidance program, an apprenticeship training program, on-the-job training

39 program, or other occupational training or retraining program;

40 (C) Discriminate against any individual in his or her pursuit of such programs or to
41 discriminate against such a person in the terms, conditions, or privileges of such programs;

42 (D) Print or circulate or cause to be printed or circulated any statement, advertisement or
43 publication, or to use any form of application for these programs or to make any inquiry in
44 connection with a program which expresses, directly or indirectly, discrimination or any intent to
45 discriminate unless based upon a bona fide occupational qualification;

46 (5) For any employment agency to fail or refuse to classify properly, refer for employment
47 or otherwise to discriminate against any individual because of his or her race, religion, color,
48 national origin, ancestry, sex, sexual orientation, gender identity, familial status, age, blindness, or
49 disability;

50 (6) For any person being the owner, lessee, proprietor, manager, superintendent, agent, or
51 employee of any place of public accommodations to:

52 (A) Refuse, withhold from, or deny to any individual because of his or her race, religion,
53 color, national origin, ancestry, sex, sexual orientation, gender identity, familial status, age,
54 blindness, or disability, either directly or indirectly, any of the accommodations, advantages,
55 facilities, privileges, or services of the place of public accommodations;

56 (B) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or
57 printed communication, notice or advertisement to the effect that any of the accommodations,
58 advantages, facilities, privileges, or services of any such place shall be refused, withheld from, or
59 denied to any individual on account of race, religion, color, national origin, ancestry, sex, sexual
60 orientation, gender identity, familial status, age, blindness, or disability, or that the patronage or
61 custom thereof of any individual, belonging to or purporting to be of any particular race, religion,
62 color, national origin, ancestry, sex, sexual orientation, gender identity, familial status, or age, or
63 who is blind or disabled, is unwelcome, objectionable, not acceptable, undesired, or not solicited;
64 or

65 (7) For any person, employer, employment agency, labor organization, owner, real estate
66 broker, real estate salesman, or financial institution to:

67 (A) Engage in any form of threats or reprisal, or to engage in, or hire, or conspire with
68 others to commit acts or activities of any nature, the purpose of which is to harass, degrade,
69 embarrass, or cause physical harm or economic loss or to aid, abet, incite, compel, or coerce any
70 person to engage in any of the unlawful discriminatory practices defined in this section;

71 (B) Willfully obstruct or prevent any person from complying with the provisions of this
72 article, or to resist, prevent, impede, or interfere with the commission or any of its members or
73 representatives in the performance of a duty under this article; or

74 (C) Engage in any form of reprisal or otherwise discriminate against any person because
75 he or she has opposed any practices or acts forbidden under this article or because he or she has
76 filed a complaint, testified, or assisted in any proceeding under this article.

§16B-17-16. Certain records exempt.

1 Notwithstanding any other provisions of this article, it shall not be an unlawful
2 discriminatory practice for the Bureau of Employment Programs to ascertain and record the age,
3 sex, sexual orientation, gender identity, familial status, race, religion, color, national origin,
4 ancestry, blindness or disability of any individual for the purpose of making such reports as may
5 from time to time be required by agencies of the federal government or be necessary to show
6 compliance with any rule or regulation issued by any such agency. Said records may be made and
7 kept in the manner required by the federal government: *Provided*, That such recording of the age,
8 sex, sexual orientation, gender identity, familial status, race, religion, color, national origin,
9 ancestry, blindness or disability of any individual shall not be used to discriminate, within the
10 meaning of this article, directly or indirectly, against any such individual as prohibited by all other
11 sections of this article.

§16B-17-20. Violations of human rights; civil action by attorney general.

1 (a) A person has the right to engage in lawful activities without being subject to actual or

2 threatened:

3 (1) Physical force or violence against him or her or any other person, or

4 (2) Damage to, destruction of or trespass on property,

5 any of which is motivated by race, color, religion, sex, sexual orientation, gender identity,
6 familial status, ancestry, national origin, political affiliation or disability.

7 (b) Whenever any person, whether or not acting under the color of law, intentionally
8 interferes or attempts to interfere with another person's exercise or enjoyment of rights secured by
9 this article or §16B-18-1 *et seq.* of this code, by actual or threatened physical force or violence
10 against that person or any other person, or by actual or threatened damage to, destruction of or
11 trespass on property, the Attorney General may bring a civil action:

12 (1) For injunctive or other appropriate equitable relief in order to protect the peaceable
13 exercise or enjoyment of the rights secured, or

14 (2) For civil penalties as specified in subsection (c) of this section, or

15 (3) For both equitable relief and civil penalties.

16 This action must be brought in the name of the state and instituted in the circuit court for the
17 county where the alleged violator resides or has a principal place of business or where the alleged
18 violation occurred.

19 (c) A civil penalty of not more than \$5,000 per violation may be assessed against any
20 person violating this section.

21 (d) Each preliminary, temporary, or permanent injunction issued under this section must
22 include a statement describing the penalties to be imposed for a knowing violation of the order or
23 injunction as provided in subsection (e) of this section. The clerk of the circuit court shall transmit
24 one certified copy of each order or injunction issued under this section to the appropriate law-
25 enforcement agency or agencies having authority over locations where the defendant was alleged
26 to have committed the act giving rise to the action, and service of the order or injunction must be
27 accomplished pursuant to the West Virginia rules of civil procedure.

28 (e) A person who knowingly violates a preliminary, temporary or permanent injunction
 29 issued under this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined
 30 not more than \$5,000, or imprisoned in the county or regional jail not more than one year, or both
 31 fined and imprisoned.

ARTICLE 18. WEST VIRGINIA FAIR HOUSING ACT.

§16B-18-3. Definitions.

1 As used in this article:

2 (a) "Commission" means the West Virginia Human Rights Commission;

3 (b) "Dwelling" means any building, structure or portion thereof which is occupied as, or
 4 designed or intended for occupancy as, a residence or sleeping place by one or more persons or
 5 families and any vacant land which is offered for sale or lease for the construction or location
 6 thereon of any such building, structure or portion thereof;

7 (c) "Family" includes a single individual;

8 (d) "Person" includes one or more individuals, corporations, partnerships, associations,
 9 labor organizations, legal representatives, mutual companies, joint-stock companies, trusts,
 10 unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code,
 11 receivers and fiduciaries;

12 (e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration
 13 the right to occupy premises not owned by the occupant;

14 (f) "Discriminatory housing practice" means an act that is unlawful under §16B-18-5, §16B-
 15 18-6, §16B-18-7, or §16B-18-19 of this article;

16 (g) "Disability" means, with respect to a person:

17 (1) A physical or mental impairment which substantially limits one or more of the person's
 18 major life activities;

19 (2) A record of having such an impairment; or

20 (3) Being regarded as having such an impairment, but the term does not include current,

21 illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled
22 Substances Act, Title 21, United States Code, Section 802;

23 (h) "Aggrieved person" includes any person who:

24 (1) Claims to have been injured by a discriminatory housing practice; or

25 (2) Believes that the person will be injured by a discriminatory housing practice that is
26 about to occur;

27 (i) "Complainant" means the person, including the commission, who files a complaint
28 under §16B-18-11;

29 (j) "Familial status" means:

30 (1) One or more individuals who have not attained the age of 18 years being domiciled
31 with:

32 (A) A parent or another person having legal custody of the individual or individuals; or

33 (B) The designee of the parent or other person having custody of the individual with the
34 written permission of the parent or other person; or

35 (2) Any person who is pregnant or is in the process of securing legal custody of any
36 individual who has not attained the age of 18 years;

37 (k) "Conciliation" means the attempted resolution of issues raised by a complaint or by the
38 investigation of the complaint through informal negotiations involving the aggrieved person, the
39 respondent and the commission;

40 (l) "Conciliation agreement" means a written agreement setting forth the resolution of the
41 issues in conciliation;

42 (m) "Respondent" means:

43 (1) The person or other entity accused in a complaint of an unfair housing practice; and

44 (2) Any other person or entity identified in the course of investigation and notified as
45 required with respect to respondents identified under §16B-18-11(a);

46 (n) The term "rooming house" means a house or building where there are one or more

47 bedrooms which the proprietor can spare for the purpose of giving lodgings to persons he or she
48 chooses to receive; and

49 (o) The term "basic universal design" means the design of products and environments to
50 be useable by all people, to the greatest extent possible, without the need for adaptation or
51 specialization.

52 (p) "Assistance animal" means any service, therapy or support animal, weighing less than
53 150 pounds, with or without specific training or certification, that works, provides assistance, or
54 performs tasks for the benefit of a person with a disability, or provides emotional support that
55 alleviate one or more identified symptoms or effects of a person's disability.

56 (q) The term "gender identity" means the actual or perceived gender-related identity,
57 expression, appearance, mannerisms, or other gender-related characteristics of an individual,
58 regardless of the individual's designated sex at birth.

59 (r) The term "sexual orientation" means heterosexuality, bisexuality, homosexuality, or
60 gender identity or expression, whether actual or perceived.

§16B-18-5. Discrimination in sale or rental of housing and other prohibited practices.

1 As made applicable by section four of this article and except as exempted by §16B-18-4
2 and §16B-18-8 of this code, it is unlawful:

3 (a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for
4 the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of
5 race, color, religion, ancestry, sex, sexual orientation, gender identity, familial status, blindness,
6 disability or national origin;

7 (b) To discriminate against any person in the terms, conditions or privileges of sale or rental
8 of a dwelling, or in the provision of services or facilities in connection therewith, because of race,
9 color, religion, ancestry, sex, sexual orientation, gender identity, familial status, blindness,
10 disability or national origin;

11 (c) To make, print or publish, or cause to be made, printed or published any notice,

12 statement or advertisement, with respect to the sale or rental of a dwelling that indicates any
13 preference, limitation or discrimination based on race, color, religion, sex, sexual orientation,
14 gender identity, blindness, disability, familial status, ancestry or national origin, or an intention to
15 make any such preference, limitation or discrimination;

16 (d) To represent to any person because of race, color, religion, sex, sexual orientation,
17 gender identity, blindness, disability, familial status, ancestry or national origin that any dwelling is
18 not available for inspection, sale or rental when the dwelling is in fact available;

19 (e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by
20 representations regarding the entry or prospective entry into the neighborhood of a person or
21 persons of a particular race, color, religion, sex, sexual orientation, gender identity, blindness,
22 disability, familial status, ancestry or national origin; or

23 (f) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a
24 dwelling to any buyer or renter because of a disability of: (A) That buyer or renter; (B) a person
25 residing in or intending to reside in that dwelling after it is so sold, rented or made available; or (C)
26 any person associated with that buyer or renter.

27 (2) To discriminate against any person in the terms, conditions or privileges of sale or rental
28 of a dwelling, or in the provision of services or facilities in connection with the dwelling, because of
29 a disability of: (A) That person; (B) a person residing in or intending to reside in that dwelling after it
30 is so sold, rented or made available; or (C) any person associated with that person.

31 (3) For purposes of this subdivision, discrimination includes:

32 (A) A refusal to permit, at the expense of the disabled person, reasonable modifications of
33 existing premises occupied or to be occupied by the person if the modifications may be necessary
34 to afford the person full enjoyment of the premises, except that, in the case of a rental, the landlord
35 may where it is reasonable to do so condition permission for a modification on the renter agreeing
36 to restore the interior of the premises to the condition that existed before the modification,
37 reasonable wear and tear excepted;

38 (B) A refusal to make reasonable accommodations in rules, policies, practices or services
39 when the accommodations may be necessary to afford the person equal opportunity to use and
40 enjoy a dwelling; or

41 (C) In connection with the design and construction of covered multifamily dwellings for first
42 occupancy after the date that is thirty months after the date of enactment of the West Virginia Fair
43 Housing Act, a failure to design and construct those dwellings in a manner that:

44 (i) The public use and common use portions of the dwellings are readily accessible to and
45 usable by disabled persons;

46 (ii) All the doors designed to allow passage into and within all premises within the dwellings
47 are sufficiently wide to allow passage by disabled persons in wheelchairs; and

48 (iii) All premises within the dwellings contain the following features of adaptive design: (I)
49 An accessible route into and through the dwelling; (II) light switches, electrical outlets, thermostats
50 and other environmental controls in accessible locations; (III) reinforcements in bathroom walls to
51 allow later installation of grab bars; and (IV) usable kitchens and bathrooms that an individual in a
52 wheelchair can maneuver about the space.

53 (4) Compliance with the appropriate requirements of the *American National Standard for*
54 *Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People*,
55 commonly cited as ANSI A117.1, suffices to satisfy the requirements of subparagraph (3)(C)(iii) of
56 this subdivision.

57 (5) (A) If a unit of general local government has incorporated into its laws the requirements
58 set forth in subparagraph (3)(C) of this subdivision, compliance with those laws satisfy the
59 requirements of that subparagraph.

60 (B) The commission or unit of general local government may review and approve newly
61 constructed covered multifamily dwellings for the purpose of making determinations as to whether
62 the design and construction requirements of subparagraph (3)(C) of this subdivision are met.

63 (C) The commission shall encourage, but may not require, units of local government to

64 include in their existing procedures for the review and approval of newly constructed covered
65 multifamily dwellings, determinations as to whether the design and construction of such dwellings
66 are consistent with subparagraph (3)(C) of this subdivision, and may provide technical assistance
67 to units of local government and other persons to implement the requirements of that
68 subparagraph.

69 (D) Nothing in this article requires the commission to review or approve the plans, designs
70 or construction of all covered multifamily dwellings to determine whether the design and
71 construction of the dwellings are consistent with the requirements of subparagraph (3)(C) of this
72 subdivision.

73 (6) (A) Nothing in paragraph (5) of this subdivision affects the authority and responsibility of
74 the commission or a local public agency to receive and process complaints or otherwise engage in
75 enforcement activities under this article.

76 (B) Determinations by a unit of general local government under subparagraphs (5)(A) and
77 (B) of this subdivision are not conclusive in enforcement proceedings under this article.

78 (7) As used in this section, the term "covered multifamily dwellings" means: (A) Buildings
79 consisting of four or more units if the buildings have one or more elevators; and (B) ground floor
80 units in other buildings consisting of four or more units.

81 (8) Nothing in this article invalidates or limits any law of this state or any political
82 subdivision of this state that requires dwellings to be designed and constructed in a manner that
83 affords disabled persons greater access than is required by this article.

84 (9) This section does not require that a dwelling be made available to an individual whose
85 tenancy would constitute a direct threat to the health or safety of other individuals or whose
86 tenancy would result in substantial physical damage to the property of others. The burden of
87 proving such threat to health or safety or the likelihood of such damage is upon the respondent.

88 (10) For the purposes of this subdivision, rules, policies, practices, or services regarding
89 animals are subject to the reasonable accommodation requirements of subparagraph (B),

90 paragraph (3) of this subdivision and the following provisions:

91 (A) In connection with a request for reasonable accommodation to the rules, policies or
92 services, a person with a disability may be required to submit documentation, from a professional
93 treatment provider, of the disability related need for the assistance animal.

94 (i) Such documentation is sufficient if it establishes that the assistance animal will provide
95 some type of disability-related assistance or emotional support.

96 (ii) A person with a disability may not be required to submit or provide access to medical
97 records or medical providers, or to provide detailed or extensive information or documentation of a
98 person's physical or mental impairments.

99 (B) A person with a disability may be denied the accommodation of an assistance animal if
100 there is credible evidence that:

101 (i) The assistance animal poses a direct threat to the health or safety of others that cannot
102 be eliminated by another reasonable accommodation; or

103 (ii) The assistance animal would cause substantial physical damage to the property of
104 other that cannot be reduced or eliminated by another reasonable accommodation.

105 (C) A determination that an assistance animal poses a direct threat of harm to others or
106 would cause substantial physical damage to the property of others must be based on an
107 individualized assessment that relies on objective evidence about the specific animal's actual
108 conduct.

109 (D) A request for a reasonable accommodation may not be unreasonably denied,
110 conditioned on payment of a fee or deposit or other terms and conditions applied to applicants or
111 residents with pets, and a response may not be unreasonably delayed.

§16B-18-6. Discrimination in residential real estate-related transactions.

1 (a) It is unlawful for any person or other entity whose business includes engaging in
2 residential real estate-related transactions to discriminate against any person in making available
3 such a transaction or in the terms or conditions of such a transaction because of race, color,

4 religion, sex, sexual orientation, gender identity, blindness, disability, familial status, ancestry or
5 national origin.

6 (b) As used in this section, the term "residential real estate-related transaction" means any
7 of the following:

8 (1) The making or purchasing of loans or providing other financial assistance: (A) For
9 purchasing, constructing, improving, repairing or maintaining a dwelling; or (B) secured by
10 residential real estate; or

11 (2) The selling, brokering or appraising of residential real property.

12 (c) Nothing in this article prohibits a person engaged in the business of furnishing
13 appraisals of real property to take into consideration factors other than race, color, religion,
14 national origin, ancestry, sex, blindness, disability, or familial status.

§16B-18-7. Discrimination in provision of brokerage services.

1 It is unlawful to deny any person access to or membership or participation in any multiple
2 listing service, real estate broker's organization or other service, organization or facility relating to
3 the business of selling or renting dwellings, or to discriminate against him or her in the terms or
4 conditions of such access, membership, or participation on account of race, color, religion, sex,
5 sexual orientation, gender identity, blindness, disability, familial status, ancestry or national origin.

NOTE: The purpose of this bill is to add "sexual orientation," "gender identity" and "familial status" to the categories covered by the Human Rights Act, prohibiting discrimination in employment and places of public accommodation. The bill adds "sexual orientation" and "gender identity" to the categories covered by the Fair Housing Act prohibiting discrimination in housing. The bill defines "sexual orientation" and "gender identity".

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.