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Introduction

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## Fair Housing



The sale and rental of housing free from discriminatory practices or policies, while continuing to treat everyone equally and with respect.

Why is it important?

- Moral Responsibility
- Civil Rights Law
- Smart Business

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## The Fair Housing Act



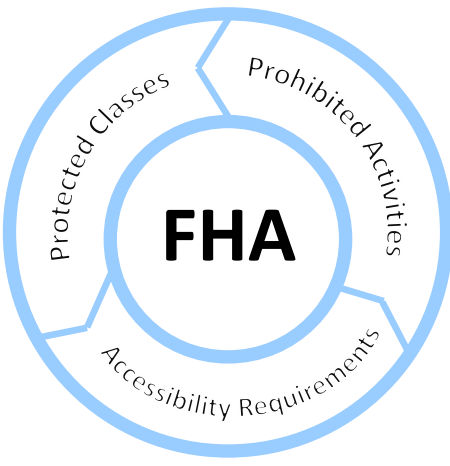
- The Fair Housing Act (FHA) was signed into law on April 11, 1968
- It was amended in 1988 to create additional **protected classes**



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## Components of Fair Housing



- Protected Classes
- Prohibited Activities
- Accessibility Requirements

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## Examples

- Apartments
- Condominiums
- Emergency Shelters
- Transitional Housing
- Single Family Housing
- College Dorm Rooms
- Manufactured/Mobile Homes
- Nursing Home/Assisted Living
- Vacant Land Designated for Residential Construction

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## Fair Housing Act Exemptions



- Housing for Older Persons
  - Religious Organizations
  - Small Landlord Exemptions
    - **Unless:**
      - Hire an agent or a management company
      - Make a discriminatory statement (ad)
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## Protected Classes



- A group of people that share a common trait or characteristic and are then legally protected from discrimination because of that trait/characteristic.
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## Protected Classes – Federal



- Race
- Color
- National Origin
- Religion
- Sex (HUD Memo 2021)
- Familial Status
- Disability



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## HUD Memo - 2021



- Sex as a protected class now includes discrimination that occurs because of sexual orientation or gender identity.
- Provides instructions to investigate and focus on complaints of discrimination based on sexual orientation and gender identity.

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## Sexual Orientation and Gender Identity



- Sexual Orientation
  - Refusing to rent to same-gender couple
- Gender Identity
  - Harassing a tenant by not using their correct pronouns or chosen name on purpose
  - Landlord charging different fees or conditions after a tenant transitions

<https://homeofva.org/get-help/fair-housing/>

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## Protected Classes – State or Local




- Individual states or local areas have extended federal protections by adding more protected classes to their local laws.
- It is up to every individual to learn the protected classes in their state and local area.

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# Virginia



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- **Statewide**
  - Elderliness (55+)
  - Sexual Orientation
  - Gender Identity
  - Veteran Status
  - Source of Funds
- **Arlington County**
  - Marital Status
  - Sexual Orientation
- **Falls Church**
  - Marital Status




- **City of Alexandria**
  - Sexual Orientation
  - Ancestry
  - Marital Status
  - Age
- **Fairfax County**
  - Marital Status
- **Prince William County**
  - Age
  - Marital Status

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# Virginia Exemptions



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- **Small Landlords:** Applies to a landlord who owns three (3) or fewer single-family homes.
- **“Mrs. Murphy”:** Applies to owner/landlord who lives in one of the units of a dwelling with four (4) or fewer rental unit.
- **Source of Funds:** Applies to all housing providers who own more than four rental dwelling units or more than a 10% interest in more than four rental dwelling units in VA.

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## Status as a Veteran



- Prohibits discrimination against Veterans who are active military, naval, or air service, or were discharged or released under conditions other than dishonorable.
- Examples:
  - A real-estate agent steering or persuading a veteran to buy a home in a specific area where other veterans or military families live.
  - A property manager allowing stereotypes to influence decisions about renting to veterans.

<https://homeofva.org/get-help/fair-housing/>

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## Source of Funds



- Any source that lawfully provides funds to or on behalf of a renter or buyer, including any assistance, benefit, or subsidy program, administered by a governmental or nongovernmental entity.
- 15 days for source of funds to be approved.
- Examples include: **Housing Choice Vouchers**, Disability Benefits, Veteran Benefits, Child Support, Alimony.

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## Housing Choice Vouchers



- What is the Housing Choice Voucher Program?
- Benefits for Housing Providers
  - Timely payment by Direct Deposit
  - Low Vacancy Rates
  - Free Annual Inspections



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## DPOR Guidance



- Provides technical assistance regarding actions, behaviors, policies, and procedures that could violate source of funds protections in Virginia.
- The guidance reinforces that the goal is to prohibit discriminatory practices with respect to residential housing based on source of funds **not** to prevent non-discriminatory consideration of financing during housing transactions.

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## Sellers: Terms & Conditions



- Not unlawful under Virginia Fair Housing Law for a seller to consider financial terms and conditions including loan amount, loan program or type of loan, of a real estate purchase.
- Example: A seller has three offers - a conventional loan, a VA loan, or cash. Seller does not violate source of funds protections by taking into consideration how each person would pay for their home.

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## Income Inquiries



- Housing providers may ask about and verify source of funds in a non-discriminatory manner.
- No definition on the duration of the source of funds.
- Housing providers may not refuse lawful sources of funds based on duration or nature of funds.

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## Income Criteria

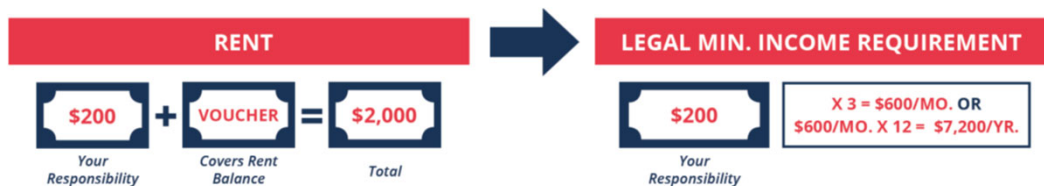


- Income criteria must be applied fairly
- Housing providers should not change criteria based on source of funds or any other protected class
- Based on tenant's portion of the rent!
- This "neutral criteria" should not be applied in a manner that results in automatic disqualification w/third-party paying a portion of the rent.
  - Credit?

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## Income Qualification



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## Administrative Burden



- Refusing to rent to a HCV-holder because of “administrative burdens” still blocks housing opportunities for applicants who are otherwise qualified.

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## Exemptions



- Applies to all housing providers who own more than four rental dwelling units or more than a 10% interest in more than four rental dwelling units in VA.
- Source of funds must be approved in 15 days of a person’s submission of request for tenancy approval
  - Postponing or delaying the process could be seen as a refusal to rent

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## 15 Days?



- Clock starts when the **complete** request for tenancy approval (RFTA) is submitted.
- Source of funds considered approved on the date a unit passes inspection.
- Good faith effort from the housing provider.

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## Further Resources



- ERC Resources Page
  - [www.equalrightscenter.org/resources](http://www.equalrightscenter.org/resources)
- ERC Online Courses
  - [www.equalrightscenter.litmos.com](http://www.equalrightscenter.litmos.com)
- Brian McKenzie
  - [bmckenzie@equalrightscenter.org](mailto:bmckenzie@equalrightscenter.org)
- FCOHREP Web Address
  - <https://www.fairfaxcounty.gov/humanrights/>
  - <https://www.fairfaxcounty.gov/humanrights/housing-discrimination>
- FCOHREP Resources
  - <https://www.fairfaxcounty.gov/humanrights/brochures-and-publications>
- Margaret Squires
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