



VAMA Legislative Report

2020 General Assembly Session

This year was a new experience for the VAMA legislative team. A new pair of majorities in the two chambers of the legislature presented new challenges that the industry had not faced in decades, pushing for broad changes to how Virginia's apartment industry does business. VAMA also benefited from having one more member of the legislative team working session this year as well, with the addition of Tommy Herbert, VAMA's Manager of Government Affairs.

Most of the harshest bills were either held at bay or were negotiated upon to the point that the impact to VAMA members was mitigated to the furthest extent possible. One bill in particular, H.B. 6 from Delegate Jeffrey Bourne, however, became our biggest fight of the session. This bill will add 'source of income' as a protected class under Virginia's Fair Housing law, effectively mandating the acceptance of Section 8 vouchers. VAMA worked tirelessly wire-to-wire this session to defeat H.B. 6, nearly achieving victory in the Senate General Laws and Technology Committee. Unfortunately, this brought the Governor's office, the Attorney General's office, and a number of contracted lobbyists into the fray, putting unprecedented pressure on the votes that VAMA needed to influence to succeed. Eleventh-hour amendments also dented the opposition to HB6 which VAMA had been able to develop in the Committee, sealing H.B. 6's fate.

This setback does not invalidate the strides that we were able to make on other legislation, however. On other topics popular with the new Democratic majorities, like rental registry, late fee caps, and a "Tenants Bill of Rights" VAMA was able to work constructively with the stakeholders involved to bring these pieces of legislation forms that will not harm the apartment industry. Below find a summary and status for the most salient issues that VAMA worked on this session.

VAMA now looks forward to the off-season, the most important time for legislation, as this is the time when we have the most access to legislators to educate them on industry perspective and ideas, and to form closer relationships with them to help create better policy. Over the course of the spring and summer, VAMA will be reaching out to members across the state to help start this process, and we would be incredibly grateful if you would join us in these efforts. If you would like to volunteer to attend a meeting with your local elected leaders, please reach out to Tommy Herbert at tommy@vamaonline.org or 804-761-3235.

PROTECTED CLASSES

"SOURCE OF INCOME"

AMENDED, APPROVED BY SENATE AND HOUSE OF DELEGATES

H.B. 6 was introduced by Delegate Jeffrey Bourne (D-Richmond) seeking to add 'source of income' to Virginia's Fair Housing law. The bill was amended to exempt small owners of four or fewer rental units but would still force VAMA members into the currently voluntary federal housing choice voucher program. VAMA fought tooth and nail over this bill. It was our highest priority in the 2020 Session. After a lively floor debate and significant industry testimony in the House General Laws Committee and the Subcommittee on Housing, [H.B. 6](#) passed out of the House of Delegates on a vote of 61-37. Thus, the bill passed over to the Senate. Further late-breaking amendments in the Senate General Laws and Technology committee sealed the bill's fate, swaying the 2 democratic votes that VAMA had been counting on to defeat the bill

there. These amendments essentially provide a 15-day timeline for the housing authority to complete their work, starting with the submission of the voucher holder's request for tenancy. While these amendments will mitigate the impact that this mandatory participation will have, VAMA will be working to inform and educate members and to get specifics about the enforcement and the enactment of this bill when it goes into effect on July 1.

PROTECTING VICTIMS OF FAMILY ABUSE

AMENDED, APPROVED BY SENATE AND HOUSE OF DELEGATES

Delegate Sam Rasoul (D-Roanoke) introduced [H.B. 99](#) to add "victims of family abuse" to the list of protected classes under fair housing law. The bill was intended to stop discrimination against victims of domestic violence whose credit has been fraudulently impacted by their abuser. This bill emerged from a horrific case of abuse in Roanoke which left one victim unable to find housing due to their abuser tanking their credit score through identity theft. Unfortunately, as the bill was originally drafted it would not only have not addressed that problem, but it would put housing providers between a rock and a hard place regarding self-reporting.

VAMA's legislative team was able to work with a broad array of stakeholders to get the bill into a posture that actually addresses the Delegate's intent. The bill as passed will require landlords to take into account all of the information provided by an applicant who declares that they are a victim of domestic violence and that their credit has been affected by their abuser. This would include letters from support agencies, notification from an attorney, or the court. This way, VAMA members can help victims whose bad credit is not their fault find housing, while also making sure that leases they sign with their residents are sustainable. The bill passed the House of Delegates 80-20 and with amendments passed the Senate unanimously 40-0. This bill will go into effect on July 1, 2020.

DISCRIMINATION/ADDITIONAL PROTECTED CLASSES

AMENDED, APPROVED BY SENATE AND HOUSE OF DELEGATES

The new Democratic majorities in the House and Senate placed a high priority on passing anti-discrimination legislation in 2020. Several bills were introduced to add to the list of protected classes under Virginia's fair housing law. The bulk of those were rolled into omnibus discrimination legislation affecting all types of public accommodation as well as employment. [H.B. 1663](#), introduced by Delegate Mark Sickles (D-Alexandria), and [S.B. 868](#), introduced by Senator Adam Ebbin (D-Arlington) were drafted to serve as the legislative vehicles in the House and Senate respectively. As drafted, the bills would have established new protected classes for sexual orientation, gender identity, pregnancy, childbirth or related medical conditions including lactation, marital status or status as a veteran. VAMA worked with the bill patrons to successfully secure amendments to eliminate from the housing provisions of the bill pregnancy, childbirth or related medical conditions including lactation, and marital status, all arguably covered under familial status. As amended, the only new additions to fair housing law under the bill would be sexual orientation, gender identity and status as a veteran. The bills passed with bipartisan support in both chambers. This bill will go into effect on July 1, 2020.

LANDLORD/TENANT AND OTHER HOUSING BILLS

TENANT RIGHT TO REPAIR/DEDUCT

AMENDED, APPROVED BY SENATE AND HOUSE OF DELEGATES

VAMA staff worked with Senator Bill Stanley's office as well as stakeholders across the housing spectrum to come to consensus on [S.B. 905](#) and [S.B. 906](#). Both bills essentially sought to accomplish the same goal, albeit from different sides of the courtroom. Both bills attempt to give a resident more leeway in how they get repairs taken care of in cases where a situation affects life, health, or safety and a landlord has not responded to notice.

S.B. 905 would allow a resident who has alerted their landlord to a condition that affects life, health, or safety to order the necessary repairs themselves if the landlord has not begun to address the issue within 14 days. They could then deduct the amount (up to \$1,500 or one month's rent, whichever is higher) which was spent on those repairs from their rent. That bill passed the Senate unanimously. The House, however, attempted to amend the bill beyond the compromise that had been reached by all stakeholder groups to allow a tenant to conduct repairs and deduct costs up to the amount of 2-months periodic rent. In some areas of the state, that would allow the tenant to incur costs in excess of \$10,000 without the housing provider's approval. The Senate rejected that amendment and sent the bill to a committee of conference, ultimately arriving at the more reasonable cap of the greater of one-month's rent or \$1,500. The final conference report passed the House 54-38 and the Senate 40-0. This bill will go into effect on July 1, 2020.

S.B. 906 attempted to address the same situations by basically removing the escrow process by which Virginia tenants may make a Tenant's Assertion in court, stating that conditions could be used as a defense to nonpayment of rent in court. This bill was both too broad and would have significantly altered Virginia's Residential Landlord and Tenant Act. As S.B.905 was the more workable vehicle for these efforts, S.B. 906 was left in the Senate Committee on General Laws and Technology.

CAPPING LATE FEES FOR NONPAYMENT OF RENT

AMENDED, APPROVED BY SENATE AND HOUSE OF DELEGATES

VAMA staff negotiated a compromise with Delegate Jeff Bourne (D-Richmond) and the administration on a proposal to cap late fees. [H.B. 1420](#), introduced on behalf of the Governor, sought to cap allowable late fees for non-payment of rent at 5%. VAMA was able to persuade the administration, however, to instead set the cap at the lesser of 10% of periodic rent or 10% of the outstanding balance. The bill passed the House of Delegates on a vote of 80-20 and the Senate on a vote of 38-2. This bill will go into effect on July 1, 2020.

TENANT BILL OF RIGHTS

AMENDED, APPROVED BY SENATE AND HOUSE OF DELEGATES

Delegate Jeion Ward (D-Hampton) and Senator Jennifer McClellan (D-Richmond) proposed legislation direct the Department of Housing and Community Development to develop a plain English summary of a tenant's rights and duties under the Virginia Residential Landlord/Tenant Act. The bill, authored by the Virginia Poverty Law Center, went further to dictate the inclusion of certain provisions that are not actually reflective of existing law. It would have additionally required that the document be presented to a prospective tenant during the leasing process and signed by both parties. Most notably, they went even further to stipulate that failure to acquire this signed acknowledgment of receipt at the time of the lease execution creates a legal presumption that the unit is uninhabitable and empowers the tenant to break their lease at any time. VAMA secured amendments that would only require an accurate summary of tenant rights and responsibilities to be furnished to the prospective tenant as part of the lease package. If

not provided, a housing provider would not be able to maintain an action against the tenant in court until they had provided that information. [H.B. 393](#) and [S.B. 707](#) went to a committee of conference over differences between them, and the conference report came out 29-10 in the Senate, and 64-35 in the House. This bill will go into effect on July 1, 2020.

ESTABLISHING A RENTAL PROPERTY REGISTRY

PASSED BY FOR THE YEAR

Delegate Delores McQuinn's (D-Richmond) [H.B. 1516](#) sought to require housing providers to register and pay a fee to the state. Housing providers would then be required to appoint and continuously maintain a point of contact who could be contacted 24 hours per day. Those who fail to comply would be subject to fines of \$50 per day. VAMA worked with the bill patron and the Virginia Poverty Law Center to negotiate a compromise wherein a housing provider would simply be required to include in the lease document a contact number for emergency repairs and for legal inquiries. However, the amendments were ruled to be non-germane and the Delegate simply chose to pass the issue by for the year.

COUNTERING NIMBYISM

CONTINUED TO 2021 SESSION

VAMA has worked to support legislation introduced by Delegate Jeff Bourne (D-Richmond) and Senator Jennifer McClellan. [H.B. 7](#) and [S.B. 97](#) that would prohibit discrimination by local governments in land use decisions on the basis of the population a proposed development is intended to serve. In addition to adding protections for race, color, religion, national origin, sex, elderliness, familial status and disability, the bill protects against localities rejecting a proposed development on the basis of the income bracket it is intended to serve. The Commonwealth of Virginia faces a serious dearth of affordable housing options. Yet NIMBYism among surrounding communities frequently serves as a barrier to the development of new affordable housing. The two bills would arm local elected officials with the legal justification necessary to overcome such resistance and help deliver the much-needed housing to address Virginia's ongoing shortage. [H.B. 7](#) passed the House 71-28. [S.B. 97](#) passed the Senate on a vote of 38-2. The two bills unfortunately were continued to the 2021 session due to late-breaking fiscal impacts. Since the bills were not included in the budget, the fiscal impacts that they present make them impossible to pass in this session, so VAMA will return next year to advocate for these bills as well.

CONTACT INFORMATION IN TERMINATION NOTICES

AMENDED, APPROVED BY SENATE AND HOUSE OF DELEGATES

Numerous bills were introduced to require that the contact information for the local legal aid society be provided to any tenant receiving a notice of lease termination from a housing provider. VAMA worked to secure amendments that would only require that statewide legal aid contact information be provided to those tenants receiving rental assistance through the federal housing choice voucher or other similar state or federal program. The multitude of bills was ultimately rolled into Delegate David Bulova's (D-Fairfax) [H.B. 519](#) and Senator Barbara Favola's (D-Arlington) [S.B. 115](#), which were passed with bipartisan support in both houses of the legislature. This bill will go into effect on July 1, 2020.

DAMAGE INSURANCE IN LIEU OF SECURITY DEPOSIT

AMENDED, APPROVED BY SENATE AND HOUSE OF DELEGATES

Delegate Mark Keam (D-Vienna) introduced [H.B. 1333](#), allowing housing providers to accept damage insurance policies in lieu a security deposit. This is an innovative approach to reducing the up-front costs that may serve as a barrier to entry into housing, while keeping the housing provider protected against potential damages. The bill passed the Senate on a vote of 38-2 with a substitute, and the final vote in the House for passage was 85-9-1. This bill will go into effect on July 1, 2020.

STAY OF EVICTION FOR FURLOUGHED FEDERAL EMPLOYEES
AMENDED, APPROVED BY SENATE AND HOUSE OF DELEGATES

Delegate Marcia Price (D-Newport News) introduced [H.B. 340](#) to provide a stay of evictions for furloughed federal government employees. VAMA supported emergency legislation last year during the 2019 federal government shutdown to create a temporary provision to stay evictions for furloughed federal employees. H.B. 340 essentially establishes state code to address future government shutdowns. The bill passed the House 65-34 and the Senate on a vote of 39-1. This bill will go into effect on July 1, 2020.

LABOR ISSUES

RIGHT-TO-WORK REPEAL

PASSED BY INDEFINITELY BY SENATE, LEFT IN COMMITTEE ON APPROPRIATIONS IN HOUSE OF DELEGATES

Virginia's long-revered right-to-work laws faced a threat of repeal this session. Existing law very simply states that an individual's employment may not be made contingent upon their membership in a union organization. Labor interests have dominated the 2020 session and mandatory unionization was a pillar of their legislative agenda. After reporting favorably from the House Committee on Labor & Commerce, Delegate Lee Carter's (D-Manassas) [H.B. 153](#), repealing right to work, was left in the Committee on Appropriations, failing to pass the House before the crossover deadline. On the Senate side, Senate Majority Leader Dick Saslaw (D-Springfield) introduced a watered-down version of Carter's outright repeal. [S.B. 426](#) would have made an individual's employment contingent upon their paying of their "fair share" of membership dues to a union. That bill was passed by indefinitely in the Senate Committee on Commerce & Labor by a vote of 12-3, sustaining the right-to-work laws in their current form.

LABOR PROVISIONS IN ZONING LAW

PASSED BY INDEFINITELY BY SENATE

Senator Adam Ebbin (D-Arlington) introduced legislation at the request of Arlington County Board members Christian Dorsey and Katie Cristol. [S.B. 839](#) would have inserted labor provisions into planning and zoning documents. The bill sought to authorize local governments to adopt zoning regulations requiring that developers pay prevailing wages and offer other protections and benefits for construction workers employed in the development. The bill was passed by indefinitely in the Senate Committee on Local Government on a vote of 12-3.

LICENSURE OF BOILER AND PRESSURE VESSEL OPERATORS

CARRIED OVER UNTIL 2021

Senator John Bell (D-Broadlands) introduced [S.B. 346](#) on behalf of the National Association of Power Engineers (NAPE) to establish a licensure program for operators of boiler and pressure vessel systems in commercial and multifamily properties. VAMA has supported the legislation, which would help ensure that those being employed to operate these systems are qualified to operate such equipment to better avoid safety concerns. The bill passed the Senate on a vote of 26-13. Unfortunately due to a late-breaking fiscal impact, the bill was carried over into the 2021 session.

ENERGY

CLEAN ENERGY CHOICE

APPROVED BY HOUSE OF DELEGATES, PASSED BY INDEFINITELY BY SENATE

Delegate Mike Mullin (D-Newport News) and Senator Jeremy McPike (D-Dale City) introduced legislation to preserve the ability of customers to procure 100% clean and renewable energy from competitive suppliers. Providers have entered the Virginia market, supplying such energy at rates lower than Dominion Energy's base power rate. Dominion has petitioned the SCC for a tariff to close the market for such energy purchases. Delegate Mullin's [H.B. 889](#) was passed by the House on a vote of 56-44. A substitute, agreed upon by the Senate Committee on Commerce and Labor passed the Senate and was agreed upon by the House. As it passed, the bill essentially creates a pilot program.
