

Source of Funds: A New Protected Class

As of July 1, 2020, there are now 12 protected classes in Virginia fair housing law, including source of funds. It is now illegal to discriminate in the sale or rental of a residential property based on a person's source of funds. "Source of funds" is defined in the law as "any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity." In layman's terms, this means that you cannot reject an otherwise qualified prospective tenant solely because of their source of income.

There are two relevant exceptions to this new provision of fair housing law. First, if the owner of the rental property does not own more than four rental dwelling units in Virginia at the time of the prospective tenant's application then the law does not apply. Ownership also includes having more than a ten percent interest in a business entity that owns rental property. Second, if the source of income is not approved by the administering program within 15 days, the owner is able to deny the tenant's application.

Here is an example to see how this might work in practice:

A prospective tenant indicates interest in a rental unit and states they will be using a voucher to pay the rent. The property manager should then communicate with the property owner to see if they own individually, or with ten percent or more interest in a business entity, more than four rental dwelling units in Virginia. If the owner owns four or fewer rental properties, they can choose not to rent to the prospective tenant. However, if the owner owns more than four rental properties, they must evaluate the prospective tenant to see if he or she qualifies for the unit. If the prospective tenant goes through the screening process and meets the eligibility criteria for the unit (i.e. income limits, credit score, etc.) then the owner must accept the tenant's application. The owner or property manager would then reach out to the voucher organization and move forward to have the property approved. If the approval process takes longer than 15 days, the owner would be able to move on to the next applicant.

As this law is new as of July 1, there will likely be some bumps in the road in both practice and enforcement. If you have any questions about the law or its implementation in your daily business, please feel free to reach out to the [Virginia REALTORS® Legal Hotline](#). If you would like to review the actual language of the law, [it is available here](#).