

3702

2011-2012 Regular Sessions

I N   S E N A T E

March 2, 2011

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Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the executive law, in relation to making it an unlawful discriminatory practice to discriminate in the ownership, use, leasing or occupancy of housing accommodations based upon source of income

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "source of income anti-discrimination act".  
3     S 2. Subdivision 2 of section 291 of the executive law, as amended by  
4     chapter 196 of the laws of 2010, is amended to read as follows:  
5     2. The opportunity to obtain education, the use of places of public  
6     accommodation and the ownership, use and occupancy of housing accommo-  
7     dations and commercial space without discrimination because of age,  
8     race, creed, color, national origin, sexual orientation, military  
9     status, SOURCE OF INCOME, sex, marital status, or disability, as speci-  
10    fied in section two hundred ninety-six of this article, is hereby recog-  
11    nized as and declared to be a civil right.  
12    S 3. Section 292 of the executive law is amended by adding a new  
13    subdivision 35 to read as follows:  
14    35. THE TERM "SOURCE OF INCOME", WHEN USED IN THIS ARTICLE, MEANS ANY  
15    LAWFUL SOURCE OF INCOME PAID DIRECTLY OR INDIRECTLY TO A RENTER OR BUYER  
16    OF HOUSING, INCLUDING:  
17    (A) ANY LAWFUL PROFESSION OR OCCUPATION;  
18    (B) ANY GOVERNMENT OR PRIVATE ASSISTANCE, GRANT OR LOAN PROGRAM;  
19    (C) ANY GIFT, INHERITANCE, PENSION, ANNUITY, ALIMONY, CHILD SUPPORT,  
20    OR OTHER BENEFIT OR CONSIDERATION; OR  
21    (D) ANY SALE OR PLEDGE OF REAL OR PERSONAL PROPERTY, OR INTEREST IN  
22    REAL OR PERSONAL PROPERTY.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 S 4. Subdivision 9 of section 295 of the executive law, as amended by  
2 chapter 106 of the laws of 2003, is amended to read as follows:

3 9. To develop human rights plans and policies for the state and assist  
4 in their execution and to make investigations and studies appropriate to  
5 effectuate this article and to issue such publications and such results  
6 of investigations and research as in its [judgement] JUDGMENT will tend  
7 to inform persons of the rights assured and remedies provided under this  
8 article, to promote good-will and minimize or eliminate discrimination  
9 because of age, race, creed, color, national origin, sexual orientation,  
10 military status, sex, disability [or], marital status OR SOURCE OF  
11 INCOME.

12 S 5. Paragraphs (a), (b) and (c) of subdivision 2-a of section 296 of  
13 the executive law, as amended by chapter 106 of the laws of 2003, are  
14 amended to read as follows:

15 (a) To refuse to sell, rent or lease or otherwise to deny to or with-  
16 hold from any person or group of persons such housing accommodations  
17 because of the race, creed, color, disability, national origin, sexual  
18 orientation, military status, age, sex, marital status, [or] familial  
19 status, OR SOURCE OF INCOME of such person or persons, or to represent  
20 that any housing accommodation or land is not available for inspection,  
21 sale, rental or lease when in fact it is so available.

22 (b) To discriminate against any person because of his or her race,  
23 creed, color, disability, national origin, sexual orientation, military  
24 status, age, sex, marital status, [or] familial status, OR SOURCE OF  
25 INCOME in the terms, conditions or privileges of any publicly-assisted  
26 housing accommodations or in the furnishing of facilities or services in  
27 connection therewith.

28 (c) To cause to be made any written or oral inquiry or record concern-  
29 ing the race, creed, color, disability, national origin, sexual orien-  
30 tation, membership in the reserve armed forces of the United States or  
31 in the organized militia of the state, age, sex, marital status, [or]  
32 familial status, OR SOURCE OF INCOME of a person seeking to rent or  
33 lease any publicly-assisted housing accommodation; provided, however,  
34 that nothing in this subdivision shall prohibit a member of the reserve  
35 armed forces of the United States or in the organized militia of the  
36 state from voluntarily disclosing such membership.

37 S 6. Subdivision 5 of section 296 of the executive law, as amended by  
38 chapter 106 of the laws of 2003, is amended to read as follows:

39 5. (a) It shall be an unlawful discriminatory practice for the owner,  
40 lessee, sub-lessee, assignee, or managing agent of, or other person  
41 having the right to sell, rent or lease a housing accommodation,  
42 constructed or to be constructed, or any agent or employee thereof:

43 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold  
44 from any person or group of persons such a housing accommodation because  
45 of the race, creed, color, national origin, sexual orientation, military  
46 status, sex, age, disability, marital status, [or] familial status, OR  
47 SOURCE OF INCOME of such person or persons, or to represent that any  
48 housing accommodation or land is not available for inspection, sale,  
49 rental or lease when in fact it is so available.

50 (2) To discriminate against any person because of race, creed, color,  
51 national origin, sexual orientation, military status, sex, age, disabil-  
52 ity, marital status, [or] familial status, OR SOURCE OF INCOME in the  
53 terms, conditions or privileges of the sale, rental or lease of any such  
54 housing accommodation or in the furnishing of facilities or services in  
55 connection therewith.

1 (3) To print or circulate or cause to be printed or circulated any  
2 statement, advertisement or publication, or to use any form of applica-  
3 tion for the purchase, rental or lease of such housing accommodation or  
4 to make any record or inquiry in connection with the prospective  
5 purchase, rental or lease of such a housing accommodation which  
6 expresses, directly or indirectly, any limitation, specification or  
7 discrimination as to race, creed, color, national origin, sexual orien-  
8 tation, military status, sex, age, disability, marital status, [or]  
9 familial status, or SOURCE OF INCOME, OR any intent to make any such  
10 limitation, specification or discrimination.

11 The provisions of this paragraph [(a)] shall not apply (1) to the  
12 rental of a housing accommodation in a building which contains housing  
13 accommodations for not more than two families living independently of  
14 each other, if the owner resides in one of such housing accommodations,  
15 (2) to the restriction of the rental of all rooms in a housing accommo-  
16 dation to individuals of the same sex or (3) to the rental of a room or  
17 rooms in a housing accommodation, if such rental is by the occupant of  
18 the housing accommodation or by the owner of the housing accommodation  
19 and the owner resides in such housing accommodation or (4) solely with  
20 respect to age and familial status to the restriction of the sale,  
21 rental or lease of housing accommodations exclusively to persons sixty-  
22 two years of age or older and the spouse of any such person, or for  
23 housing intended and operated for occupancy by at least one person  
24 fifty-five years of age or older per unit. In determining whether hous-  
25 ing is intended and operated for occupancy by persons fifty-five years  
26 of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the  
27 federal Fair Housing Act of 1988, as amended, shall apply.

28 (b) It shall be an unlawful discriminatory practice for the owner,  
29 lessee, sub-lessee, or managing agent of, or other person having the  
30 right of ownership or possession of or the right to sell, rent or lease,  
31 land or commercial space:

32 (1) To refuse to sell, rent, lease or otherwise deny to or withhold  
33 from any person or group of persons land or commercial space because of  
34 the race, creed, color, national origin, sexual orientation, military  
35 status, sex, age, disability, marital status, [or] familial status, OR  
36 SOURCE OF INCOME of such person or persons, or to represent that any  
37 housing accommodation or land is not available for inspection, sale,  
38 rental or lease when in fact it is so available;

39 (2) To discriminate against any person because of race, creed, color,  
40 national origin, sexual orientation, military status, sex, age, disabili-  
41 ty, marital status, [or] familial status, OR SOURCE OF INCOME in the  
42 terms, conditions or privileges of the sale, rental or lease of any such  
43 land or commercial space; or in the furnishing of facilities or services  
44 in connection therewith;

45 (3) To print or circulate or cause to be printed or circulated any  
46 statement, advertisement or publication, or to use any form of applica-  
47 tion for the purchase, rental or lease of such land or commercial space  
48 or to make any record or inquiry in connection with the prospective  
49 purchase, rental or lease of such land or commercial space which  
50 expresses, directly or indirectly, any limitation, specification or  
51 discrimination as to race, creed, color, national origin, sexual orien-  
52 tation, military status, sex, age, disability, marital status, [or]  
53 familial status, OR SOURCE OF INCOME; or any intent to make any such  
54 limitation, specification or discrimination.

55 (4) With respect to age and familial status, the provisions of this  
56 paragraph shall not apply to the restriction of the sale, rental or

1 lease of land or commercial space exclusively to persons fifty-five  
2 years of age or older and the spouse of any such person, or to the  
3 restriction of the sale, rental or lease of land to be used for the  
4 construction, or location of housing accommodations exclusively for  
5 persons sixty-two years of age or older, or intended and operated for  
6 occupancy by at least one person fifty-five years of age or older per  
7 unit. In determining whether housing is intended and operated for occu-  
8 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)  
9 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as  
10 amended, shall apply.

11 (c) It shall be an unlawful discriminatory practice for any real  
12 estate broker, real estate salesperson or employee or agent thereof:

13 (1) To refuse to sell, rent or lease any housing accommodation, land  
14 or commercial space to any person or group of persons or to refuse to  
15 negotiate for the sale, rental or lease, of any housing accommodation,  
16 land or commercial space to any person or group of persons because of  
17 the race, creed, color, national origin, sexual orientation, military  
18 status, sex, age, disability, marital status, [or] familial status, OR  
19 SOURCE OF INCOME of such person or persons, or to represent that any  
20 housing accommodation, land or commercial space is not available for  
21 inspection, sale, rental or lease when in fact it is so available, or  
22 otherwise to deny or withhold any housing accommodation, land or commer-  
23 cial space or any facilities of any housing accommodation, land or  
24 commercial space from any person or group of persons because of the  
25 race, creed, color, national origin, sexual orientation, military  
26 status, sex, age, disability, marital status, [or] familial status, OR  
27 SOURCE OF INCOME of such person or persons.

28 (2) To print or circulate or cause to be printed or circulated any  
29 statement, advertisement or publication, or to use any form of applica-  
30 tion for the purchase, rental or lease of any housing accommodation,  
31 land or commercial space or to make any record or inquiry in connection  
32 with the prospective purchase, rental or lease of any housing accommo-  
33 dation, land or commercial space which expresses, directly or indirect-  
34 ly, any limitation, specification, or discrimination as to race, creed,  
35 color, national origin, sexual orientation, military status, sex, age,  
36 disability, marital status, [or] familial status, OR SOURCE OF INCOME;  
37 or any intent to make any such limitation, specification or discrimi-  
38 nation.

39 (3) With respect to age and familial status, the provisions of this  
40 paragraph shall not apply to the restriction of the sale, rental or  
41 lease of any land or commercial space exclusively to persons fifty-five  
42 years of age or older and the spouse of any such person, or to the  
43 restriction of the sale, rental or lease of any housing accommodation or  
44 land to be used for the construction or location of housing accommo-  
45 dations for persons sixty-two years of age or older, or intended and  
46 operated for occupancy by at least one person fifty-five years of age or  
47 older per unit. In determining whether housing is intended and operated  
48 for occupancy by persons fifty-five years of age or older, Sec. 807 (b)  
49 (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of  
50 1988, as amended, shall apply.

51 (d) It shall be an unlawful discriminatory practice for any real  
52 estate board, because of the race, creed, color, national origin, sexual  
53 orientation, military status, age, sex, disability, marital status, [or]  
54 familial status, OR SOURCE OF INCOME of any individual who is otherwise  
55 qualified for membership, to exclude or expel such individual from

1 membership, or to discriminate against such individual in the terms,  
2 conditions and privileges of membership in such board.

3 (e) It shall be an unlawful discriminatory practice for the owner,  
4 proprietor or managing agent of, or other person having the right to  
5 provide care and services in, a private proprietary nursing home, conva-  
6 lescent home, or home for adults, or an intermediate care facility, as  
7 defined in section two of the social services law, heretofore  
8 constructed, or to be constructed, or any agent or employee thereof, to  
9 refuse to provide services and care in such home or facility to any  
10 individual or to discriminate against any individual in the terms,  
11 conditions, and privileges of such services and care solely because such  
12 individual is a blind person. For purposes of this paragraph, a "blind  
13 person" shall mean a person who is registered as a blind person with the  
14 commission for the visually handicapped and who meets the definition of  
15 a "blind person" pursuant to section three of chapter four hundred  
16 fifteen of the laws of nineteen hundred thirteen [entitled "An act to  
17 establish a state commission for improving the condition of the blind of  
18 the state of New York, and making an appropriation therefor"].

19 (f) The provisions of this subdivision, as they relate to age, shall  
20 not apply to persons under the age of eighteen years.

21 (g) It shall be an unlawful discriminatory practice for any person  
22 offering or providing housing accommodations, land or commercial space  
23 as described in paragraphs (a), (b), and (c) of this subdivision to make  
24 or cause to be made any written or oral inquiry or record concerning  
25 membership of any person in the state organized militia in relation to  
26 the purchase, rental or lease of such housing accommodation, land, or  
27 commercial space, provided, however, that nothing in this subdivision  
28 shall prohibit a member of the state organized militia from voluntarily  
29 disclosing such membership.

30 S 7. Section 296 of the executive law is amended by adding a new  
31 subdivision 22 to read as follows:

32 22. NOTHING IN THIS SECTION PROHIBITING DISCRIMINATION BASED UPON THE  
33 SOURCE OF INCOME SHALL BE DEEMED TO PROHIBIT ANY PERSON FROM:

34 (A) REFUSING TO CONSIDER ANY INCOME DERIVED FROM ANY CRIMINAL ACTIV-  
35 ITY; OR

36 (B) DETERMINING THE ABILITY OF A POTENTIAL BUYER OR RENTER TO PAY A  
37 PURCHASE PRICE OR RENT BY:

38 (I) VERIFYING, IN A COMMERCIALY REASONABLE MANNER, THE SOURCE AND  
39 AMOUNT OF INCOME OF A POTENTIAL BUYER OR RENTER, OR

40 (II) EVALUATING, IN A COMMERCIALY REASONABLE MANNER, THE STABILITY,  
41 SECURITY AND CREDIT WORTHINESS OF A POTENTIAL BUYER OR RENTER, OR OF ANY  
42 SOURCE OF INCOME OF A POTENTIAL BUYER OR RENTER.

43 S 8. This act shall take effect on the first of July next succeeding  
44 the date upon which it shall have become a law.