

83--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. SQUADRON, ADDABBO, KRUEGER, OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to discrimination based upon the income of persons

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

1 Section 1. Section 292 of the executive law is amended by adding a new
2 subdivision 35 to read as follows:
3 35. THE TERM "SOURCE OF INCOME" SHALL INCLUDE: WAGES FROM LAWFUL
4 EMPLOYMENT; CHILD SUPPORT; ALIMONY; FOSTER CARE SUBSIDIES; INCOME
5 DERIVED FROM SOCIAL SECURITY, OR ANY FORM OF FEDERAL, STATE OR LOCAL
6 PUBLIC ASSISTANCE; HOUSING AND RENTAL SUBSIDIES AND ASSISTANCE, INCLUD-
7 ING SECTION 8 VOUCHERS; SAVINGS, INVESTMENT AND TRUST ACCOUNTS; AND ANY
8 OTHER FORMS OF LAWFUL INCOME.
9 S 2. Paragraph (a) of subdivision 2 of section 296 of the executive
10 law, as amended by chapter 106 of the laws of 2003, is amended to read
11 as follows:
12 (a) It shall be an unlawful discriminatory practice for any person,
13 being the owner, lessee, proprietor, manager, superintendent, agent or
14 employee of any place of public accommodation, resort or amusement,
15 because of the race, creed, color, national origin, sexual orientation,
16 military status, sex, SOURCE OF INCOME, or disability or marital status
17 of any person, directly or indirectly, to refuse, withhold from or deny
18 to such person any of the accommodations, advantages, facilities or
19 privileges thereof, including the extension of credit, or, directly or
20 indirectly, to publish, circulate, issue, display, post or mail any
21 written or printed communication, notice or advertisement, to the effect

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

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1 that any of the accommodations, advantages, facilities and privileges of
2 any such place shall be refused, withheld from or denied to any person
3 on account of race, creed, color, national origin, sexual orientation,
4 military status, sex, SOURCE OF INCOME, or disability or marital status,
5 or that the patronage or custom thereof of any person of or purporting
6 to be of any particular race, creed, color, national origin, sexual
7 orientation, military status, SOURCE OF INCOME, sex or marital status,
8 or having a disability is unwelcome, objectionable or not acceptable,
9 desired or solicited.

10 S 3. Paragraphs (a), (b) and (c) of subdivision 2-a of section 296 of
11 the executive law, as amended by chapter 106 of the laws of 2003, are
12 amended to read as follows:

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

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

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

35 S 4. Subdivision 5 of section 296 of the executive law, as amended by
36 chapter 106 of the laws of 2003, is amended to read as follows:

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

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

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

54 (3) To print or circulate or cause to be printed or circulated any
55 statement, advertisement or publication, or to use any form of applica-
56 tion for the purchase, rental or lease of such housing accommodation or

1 to make any record or inquiry in connection with the prospective
2 purchase, rental or lease of such a housing accommodation which
3 expresses, directly or indirectly, any limitation, specification or
4 discrimination as to race, creed, color, national origin, sexual orien-
5 tation, military status, sex, age, disability, marital status, [or]
6 familial status, OR SOURCE OF INCOME, or any intent to make any such
7 limitation, specification or discrimination.

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

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

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

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

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

52 (4) With respect to age and familial status, the provisions of this
53 paragraph shall not apply to the restriction of the sale, rental or
54 lease of land or commercial space exclusively to persons fifty-five
55 years of age or older and the spouse of any such person, or to the
56 restriction of the sale, rental or lease of land to be used for the

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

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

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

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

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

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

55 (e) It shall be an unlawful discriminatory practice for the owner,
56 proprietor or managing agent of, or other person having the right to

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

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

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

26 S 5. Section 296 of the executive law is amended by adding a new
27 subdivision 22 to read as follows:

28 22. (A) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS TWO, TWO-A, AND
29 FIVE OF THIS SECTION RELATING TO THE PROHIBITION OF UNLAWFUL DISCRIMINA-
30 TORY PRACTICES BASED ON SOURCE OF INCOME, SUCH PROVISIONS SHALL NOT
31 APPLY TO HOUSING ACCOMMODATIONS THAT CONTAIN A TOTAL OF FIVE OR FEWER
32 HOUSING UNITS LOCATED WITHIN A MUNICIPALITY THAT HAD A LOCAL LAW
33 PERTAINING TO SUCH DISCRIMINATORY PRACTICES, WHICH EXEMPTED HOUSING
34 ACCOMMODATIONS THAT CONTAINED FIVE OR FEWER HOUSING UNITS FROM SUCH
35 PROHIBITION, IN EXISTENCE PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVI-
36 SION, PROVIDED, HOWEVER, THAT IF SUCH LOCAL LAW IS REPEALED AFTER THE
37 EFFECTIVE DATE OF THIS SUBDIVISION, THE PROVISIONS OF THIS SECTION
38 RELATING TO THE PROHIBITION OF UNLAWFUL DISCRIMINATORY PRACTICES BASED
39 ON SOURCE OF INCOME SHALL APPLY TO SUCH HOUSING ACCOMMODATIONS.

40 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
41 SION, THE PROVISIONS OF SUBDIVISIONS TWO, TWO-A, AND FIVE OF THIS
42 SECTION RELATING TO THE PROHIBITION OF UNLAWFUL DISCRIMINATORY PRACTICES
43 BASED ON SOURCE OF INCOME SHALL APPLY (I) TO TENANTS SUBJECT TO RENT
44 CONTROL LAWS WHO RESIDE IN HOUSING ACCOMMODATIONS THAT CONTAIN A TOTAL
45 OF FIVE OR FEWER UNITS AS OF THE EFFECTIVE DATE OF THIS SUBDIVISION; AND
46 (II) TO ALL HOUSING ACCOMMODATIONS, REGARDLESS OF THE NUMBER OF UNITS
47 CONTAINED IN EACH, OF ANY OWNER OR ANY AGENT THEREOF WHO HAS THE RIGHT
48 TO SELL, RENT OR LEASE OR APPROVE THE SALE, RENTAL OR LEASE OF AT LEAST
49 ONE HOUSING ACCOMMODATION WITHIN THE STATE OF NEW YORK THAT CONTAINS SIX
50 OR MORE HOUSING UNITS, CONSTRUCTED OR TO BE CONSTRUCTED, OR AN INTEREST
51 THEREIN.

52 S 6. This act shall take effect immediately.