

STATE OF NEW YORK

2346

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. FERNANDEZ, CRUZ, REYES, SAYEGH, EPSTEIN, BARRON,
DARLING, O'DONNELL -- Multi-Sponsored by -- M. of A. DE LA ROSA --
read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to prohibiting discrimination based on criminal history in the sale or rental of real property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs (a), (b) and (c) of subdivision 2-a of section
2 296 of the executive law, as amended by section 3 of part T of chapter
3 56 of the laws of 2019, are amended to read as follows:

4 (a) To refuse to sell, rent or lease or otherwise to deny to or with-
5 hold from any person or group of persons such housing accommodations
6 because of the race, creed, color, disability, national origin, sexual
7 orientation, gender identity or expression, military status, age, sex,
8 marital status, lawful source of income, criminal history, or familial
9 status of such person or persons, or to represent that any housing
10 accommodation or land is not available for inspection, sale, rental or
11 lease when in fact it is so available.

12 (b) To discriminate against any person because of his or her race,
13 creed, color, disability, national origin, sexual orientation, gender
14 identity or expression, military status, age, sex, marital status,
15 lawful source of income, criminal history, or familial status in the
16 terms, conditions or privileges of any publicly-assisted housing accom-
17 modations or in the furnishing of facilities or services in connection
18 therewith.

19 (c) To cause to be made any written or oral inquiry or record concern-
20 ing the race, creed, color, disability, national origin, sexual orien-
21 tation, gender identity or expression, membership in the reserve armed
22 forces of the United States or in the organized militia of the state,
23 age, sex, marital status, lawful source of income, criminal history, or

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

LBD05452-01-1

1 familial status of a person seeking to rent or lease any publicly-as-
2 sisted housing accommodation; provided, however, that nothing in this
3 subdivision shall prohibit a member of the reserve armed forces of the
4 United States or in the organized militia of the state from voluntarily
5 disclosing such membership.

6 § 2. Paragraphs (a), (b), (c) and (d) of subdivision 5 of section 296
7 of the executive law, paragraphs (a), (b) and (c) as amended by chapter
8 8 of the laws of 2019, subparagraphs 1, 2 and 3 of paragraph (a) as
9 amended by section 4, subparagraphs 1 and 2 of paragraph (c) as amended
10 by section 5, and paragraph (d) as amended by section 6 of part T of
11 chapter 56 of the laws of 2019, are amended to read as follows:

12 (a) It shall be an unlawful discriminatory practice for the owner,
13 lessee, sub-lessee, assignee, or managing agent of, or other person
14 having the right to sell, rent or lease a housing accommodation,
15 constructed or to be constructed, or any agent or employee thereof:

16 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold
17 from any person or group of persons such a housing accommodation because
18 of the race, creed, color, national origin, sexual orientation, gender
19 identity or expression, military status, sex, age, disability, marital
20 status, lawful source of income, criminal history, or familial status of
21 such person or persons, or to represent that any housing accommodation
22 or land is not available for inspection, sale, rental or lease when in
23 fact it is so available.

24 (2) To discriminate against any person because of race, creed, color,
25 national origin, sexual orientation, gender identity or expression,
26 military status, sex, age, disability, marital status, lawful source of
27 income, criminal history, or familial status in the terms, conditions or
28 privileges of the sale, rental or lease of any such housing accommo-
29 dation or in the furnishing of facilities or services in connection
30 therewith.

31 (3) To print or circulate or cause to be printed or circulated any
32 statement, advertisement or publication, or to use any form of applica-
33 tion for the purchase, rental or lease of such housing accommodation or
34 to make any record or inquiry in connection with the prospective
35 purchase, rental or lease of such a housing accommodation which
36 expresses, directly or indirectly, any limitation, specification or
37 discrimination as to race, creed, color, national origin, sexual orien-
38 tation, gender identity or expression, military status, sex, age, disa-
39 bility, marital status, lawful source of income, criminal history, or
40 familial status, or any intent to make any such limitation, specifica-
41 tion or discrimination.

42 The provisions of this paragraph [~~(a)~~] shall not apply (1) to the
43 rental of a housing accommodation in a building which contains housing
44 accommodations for not more than two families living independently of
45 each other, if the owner resides in one of such housing accommodations,
46 (2) to the restriction of the rental of all rooms in a housing accommo-
47 dation to individuals of the same sex or (3) to the rental of a room or
48 rooms in a housing accommodation, if such rental is by the occupant of
49 the housing accommodation or by the owner of the housing accommodation
50 and the owner resides in such housing accommodation or (4) solely with
51 respect to age and familial status to the restriction of the sale,
52 rental or lease of housing accommodations exclusively to persons sixty-
53 two years of age or older and the spouse of any such person, or for
54 housing intended and operated for occupancy by at least one person
55 fifty-five years of age or older per unit. In determining whether hous-
56 ing is intended and operated for occupancy by persons fifty-five years

1 of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the
2 federal Fair Housing Act of 1988, as amended, shall apply.

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

7 (1) To refuse to sell, rent, lease or otherwise deny to or withhold
8 from any person or group of persons land or commercial space because of
9 the race, creed, color, national origin, sexual orientation, gender
10 identity or expression, military status, sex, age, disability, marital
11 status, criminal history, or familial status of such person or persons,
12 or to represent that any housing accommodation or land is not available
13 for inspection, sale, rental or lease when in fact it is so available;

14 (2) To discriminate against any person because of race, creed, color,
15 national origin, sexual orientation, gender identity or expression,
16 military status, sex, age, disability, marital status, criminal history,
17 or familial status in the terms, conditions or privileges of the sale,
18 rental or lease of any such land or commercial space; or in the furnish-
19 ing of facilities or services in connection therewith;

20 (3) To print or circulate or cause to be printed or circulated any
21 statement, advertisement or publication, or to use any form of applica-
22 tion for the purchase, rental or lease of such land or commercial space
23 or to make any record or inquiry in connection with the prospective
24 purchase, rental or lease of such land or commercial space which
25 expresses, directly or indirectly, any limitation, specification or
26 discrimination as to race, creed, color, national origin, sexual orien-
27 tation, gender identity or expression, military status, sex, age, disa-
28 bility, marital status, criminal history, or familial status; or any
29 intent to make any such limitation, specification or discrimination.

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

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

44 (1) To refuse to sell, rent or lease any housing accommodation, land
45 or commercial space to any person or group of persons or to refuse to
46 negotiate for the sale, rental or lease, of any housing accommodation,
47 land or commercial space to any person or group of persons because of
48 the race, creed, color, national origin, sexual orientation, gender
49 identity or expression, military status, sex, age, disability, marital
50 status, lawful source of income, criminal history, or familial status of
51 such person or persons, or to represent that any housing accommodation,
52 land or commercial space is not available for inspection, sale, rental
53 or lease when in fact it is so available, or otherwise to deny or with-
54 hold any housing accommodation, land or commercial space or any facili-
55 ties of any housing accommodation, land or commercial space from any
56 person or group of persons because of the race, creed, color, national

1 origin, sexual orientation, gender identity or expression, military
2 status, sex, age, disability, marital status, lawful source of income,
3 criminal history, or familial status of such person or persons.

4 (2) To print or circulate or cause to be printed or circulated any
5 statement, advertisement or publication, or to use any form of applica-
6 tion for the purchase, rental or lease of any housing accommodation,
7 land or commercial space or to make any record or inquiry in connection
8 with the prospective purchase, rental or lease of any housing accommo-
9 dation, land or commercial space which expresses, directly or indirect-
10 ly, any limitation, specification, or discrimination as to race, creed,
11 color, national origin, sexual orientation, gender identity or
12 expression, military status, sex, age, disability, marital status,
13 lawful source of income, criminal history, or familial status; or any
14 intent to make any such limitation, specification or discrimination.

15 (3) With respect to age and familial status, the provisions of this
16 paragraph shall not apply to the restriction of the sale, rental or
17 lease of any housing accommodation, land or commercial space exclusively
18 to persons fifty-five years of age or older and the spouse of any such
19 person, or to the restriction of the sale, rental or lease of any hous-
20 ing accommodation or land to be used for the construction or location of
21 housing accommodations for persons sixty-two years of age or older, or
22 intended and operated for occupancy by at least one person fifty-five
23 years of age or older per unit. In determining whether housing is
24 intended and operated for occupancy by persons fifty-five years of age
25 or older, Sec. 807 (b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the
26 federal Fair Housing Act of 1988, as amended, shall apply.

27 (d) It shall be an unlawful discriminatory practice for any real
28 estate board, because of the race, creed, color, national origin, sexual
29 orientation, gender identity or expression, military status, age, sex,
30 disability, marital status, lawful source of income, criminal history,
31 or familial status of any individual who is otherwise qualified for
32 membership, to exclude or expel such individual from membership, or to
33 discriminate against such individual in the terms, conditions and privi-
34 leges of membership in such board.

35 § 3. This act shall take effect immediately.