

5369

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. CAMARA -- read once and referred to the Committee on Housing

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 106 of the laws of 2003, 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 or marital status, as specified in section  
10 two hundred ninety-six of this article, is hereby recognized as and  
11 declared to be a civil right.

12 S 3. Section 292 of the executive law is amended by adding a new  
13 subdivision 34 to read as follows:

14 34. 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.

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

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

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

10 S 5. 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 6. 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, disabil-  
50 ity, 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 7. Section 296 of the executive law is amended by adding a new  
27 subdivision 21 to read as follows:

28 21. NOTHING IN THIS SECTION PROHIBITING DISCRIMINATION BASED UPON THE  
29 SOURCE OF INCOME SHALL BE DEEMED TO PROHIBIT ANY PERSON FROM:

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

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

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

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

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