

S T A T E O F N E W Y O R K

9020--A

2009-2010 Regular Sessions

I N A S S E M B L Y

June 19, 2009

Introduced by M. of A. DESTITO, JOHN, WEINSTEIN, PAULIN, GALEF -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to preventing housing discrimination against victims of domestic violence; and to repeal certain provisions of law relating thereto

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

1 Section 1. Subdivision 34 of section 292 of the executive law is
2 REPEALED and a new subdivision 34 is added to read as follows:
3 34. THE TERM "VICTIM OF DOMESTIC VIOLENCE" MEANS A PERSON WHO IS A
4 VICTIM OF AN ACT WHICH WOULD CONSTITUTE A VIOLATION OF THE PENAL LAW,
5 INCLUDING, BUT NOT LIMITED TO, AN ACT AS DEFINED IN SUBDIVISION ONE OF
6 SECTION EIGHT HUNDRED TWELVE OF THE FAMILY COURT ACT, WHERE SUCH ACT IS
7 OR HAS ALLEGED TO HAVE BEEN COMMITTED BY A FAMILY OR HOUSEHOLD MEMBER AS
8 DEFINED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED TWELVE OF THE FAMI-
9 LY COURT ACT.
10 S 2. Paragraph (a) of subdivision 2 of section 296 of the executive
11 law, as amended by chapter 106 of the laws of 2003, is amended to read
12 as follows:
13 (a) It shall be an unlawful discriminatory practice for any person,
14 being the owner, lessee, proprietor, manager, superintendent, agent or
15 employee of any place of public accommodation, resort or amusement,
16 because of the race, creed, color, national origin, sexual orientation,
17 military status, sex, or disability [or], marital status, OR STATUS AS A
18 VICTIM OF DOMESTIC VIOLENCE of any person, directly or indirectly, to
19 refuse, withhold from or deny to such person any of the accommodations,
20 advantages, facilities or privileges thereof, including the extension of
21 credit, or, directly or indirectly, to publish, circulate, issue,

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

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1 display, post or mail any written or printed communication, notice or
2 advertisement, to the effect that any of the accommodations, advantages,
3 facilities and privileges of any such place shall be refused, withheld
4 from or denied to any person on account of race, creed, color, national
5 origin, sexual orientation, military status, sex, or disability [or],
6 marital status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or that the
7 patronage or custom thereof of any person of or purporting to be of any
8 particular race, creed, color, national origin, sexual orientation,
9 military status, sex [or], marital status, OR STATUS AS A VICTIM OF
10 DOMESTIC VIOLENCE, or having a disability is unwelcome, objectionable or
11 not acceptable, desired or solicited.

12 S 3. Paragraphs (a), (b), (c) and (c-1) of subdivision 2-a of section
13 296 of the executive law, paragraphs (a), (b) and (c) as amended and
14 paragraph (c-1) as added by chapter 106 of the laws of 2003, are amended
15 to read as follows:

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

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

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

39 (c-1) To print or circulate or cause to be printed or circulated any
40 statement, advertisement or publication, or to use any form of applica-
41 tion for the purchase, rental or lease of such housing accommodation or
42 to make any record or inquiry in connection with the prospective
43 purchase, rental or lease of such a housing accommodation which
44 expresses, directly or indirectly, any limitation, specification or
45 discrimination as to race, creed, color, national origin, sexual orien-
46 tation, military status, sex, age, disability, marital status, [or]
47 familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or any
48 intent to make any such limitation, specification or discrimination.

49 S 4. Subdivisions 3-b and 4 of section 296 of the executive law, as
50 amended by chapter 106 of the laws of 2003, are amended to read as
51 follows:

52 3-b. It shall be an unlawful discriminatory practice for any real
53 estate broker, real estate salesperson or employee or agent thereof or
54 any other individual, corporation, partnership or organization for the
55 purpose of inducing a real estate transaction from which any such person
56 or any of its stockholders or members may benefit financially, to repre-

1 sent that a change has occurred or will or may occur in the composition
2 with respect to race, creed, color, national origin, sexual orientation,
3 military status, sex, disability, marital status, [or] familial status,
4 OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of the owners or occupants in
5 the block, neighborhood or area in which the real property is located,
6 and to represent, directly or indirectly, that this change will or may
7 result in undesirable consequences in the block, neighborhood or area in
8 which the real property is located, including but not limited to the
9 lowering of property values, an increase in criminal or anti-social
10 behavior, or a decline in the quality of schools or other facilities.

11 4. It shall be an unlawful discriminatory practice for an education
12 corporation or association which holds itself out to the public to be
13 non-sectarian and exempt from taxation pursuant to the provisions of
14 article four of the real property tax law to deny the use of its facili-
15 ties to any person otherwise qualified, or to permit the harassment of
16 any student or applicant, by reason of his race, color, religion, disa-
17 bility, national origin, sexual orientation, military status, sex, age
18 [or], marital status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, except
19 that any such institution which establishes or maintains a policy of
20 educating persons of one sex exclusively may admit students of only one
21 sex.

22 S 5. Paragraphs (a), (b), (c) and (d) of subdivision 5 of section 296
23 of the executive law, as amended by chapter 106 of the laws of 2003, are
24 amended to read as follows:

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

29 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold
30 from any person or group of persons such a housing accommodation because
31 of the race, creed, color, national origin, sexual orientation, military
32 status, sex, age, disability, marital status, [or] familial status, OR
33 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to
34 represent that any housing accommodation or land is not available for
35 inspection, sale, 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 STATUS AS A VICTIM OF
39 DOMESTIC VIOLENCE in the terms, conditions or privileges of the sale,
40 rental or lease of any such housing accommodation or in the furnishing
41 of facilities or services 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 housing accommodation or
45 to make any record or inquiry in connection with the prospective
46 purchase, rental or lease of such a housing accommodation 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or any
51 intent to make any such limitation, specification or discrimination.

52 The provisions of this paragraph [(a)] shall not apply (1) to the
53 rental of a housing accommodation in a building which contains housing
54 accommodations for not more than two families living independently of
55 each other, if the owner resides in one of such housing accommodations,
56 (2) to the restriction of the rental of all rooms in a housing accommo-

1 dation to individuals of the same sex or (3) to the rental of a room or
2 rooms in a housing accommodation, if such rental is by the occupant of
3 the housing accommodation or by the owner of the housing accommodation
4 and the owner resides in such housing accommodation or (4) solely with
5 respect to age and familial status to the restriction of the sale,
6 rental or lease of housing accommodations exclusively to persons sixty-
7 two years of age or older and the spouse of any such person, or for
8 housing intended and operated for occupancy by at least one person
9 fifty-five years of age or older per unit. In determining whether hous-
10 ing is intended and operated for occupancy by persons fifty-five years
11 of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the
12 federal Fair Housing Act of 1988, as amended, shall apply.

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

17 (1) To refuse to sell, rent, lease or otherwise deny to or withhold
18 from any person or group of persons land or commercial space because of
19 the race, creed, color, national origin, sexual orientation, military
20 status, sex, age, disability, marital status, [or] familial status, OR
21 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to
22 represent that any housing accommodation or land is not available for
23 inspection, sale, rental or lease when in fact it is so available;

24 (2) To discriminate against any person because of race, creed, color,
25 national origin, sexual orientation, military status, sex, age, disabil-
26 ity, marital status, [or] familial status, OR STATUS AS A VICTIM OF
27 DOMESTIC VIOLENCE in the terms, conditions or privileges of the sale,
28 rental or lease of any such land or commercial space; or in the furnish-
29 ing of facilities or services in connection therewith;

30 (3) To print or circulate or cause to be printed or circulated any
31 statement, advertisement or publication, or to use any form of applica-
32 tion for the purchase, rental or lease of such land or commercial space
33 or to make any record or inquiry in connection with the prospective
34 purchase, rental or lease of such land or commercial space which
35 expresses, directly or indirectly, any limitation, specification or
36 discrimination as to race, creed, color, national origin, sexual orien-
37 tation, military status, sex, age, disability, marital status, [or]
38 familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE; or any
39 intent to make any such limitation, specification or discrimination.

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

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

54 (1) To refuse to sell, rent or lease any housing accommodation, land
55 or commercial space to any person or group of persons or to refuse to
56 negotiate for the sale, rental or lease, of any housing accommodation,

1 land or commercial space to any person or group of persons because of
2 the race, creed, color, national origin, sexual orientation, military
3 status, sex, age, disability, marital status, [or] familial status, OR
4 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to
5 represent that any housing accommodation, land or commercial space is
6 not available for inspection, sale, rental or lease when in fact it is
7 so available, or otherwise to deny or withhold any housing accommo-
8 dation, land or commercial space or any facilities of any housing accom-
9 modation, land or commercial space from any person or group of persons
10 because of the race, creed, color, national origin, sexual orientation,
11 military status, sex, age, disability, marital status, [or] familial
12 status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or
13 persons.

14 (2) To print or circulate or cause to be printed or circulated any
15 statement, advertisement or publication, or to use any form of applica-
16 tion for the purchase, rental or lease of any housing accommodation,
17 land or commercial space or to make any record or inquiry in connection
18 with the prospective purchase, rental or lease of any housing accommo-
19 dation, land or commercial space which expresses, directly or indirect-
20 ly, any limitation, specification, or discrimination as to race, creed,
21 color, national origin, sexual orientation, military status, sex, age,
22 disability, marital status, [or] familial status, OR STATUS AS A VICTIM
23 OF DOMESTIC VIOLENCE; or any intent to make any such limitation, spec-
24 ification or discrimination.

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

37 (d) It shall be an unlawful discriminatory practice for any real
38 estate board, because of the race, creed, color, national origin, sexual
39 orientation, military status, age, sex, disability, marital status, [or]
40 familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of any indi-
41 vidual who is otherwise qualified for membership, to exclude or expel
42 such individual from membership, or to discriminate against such indi-
43 vidual in the terms, conditions and privileges of membership in such
44 board.

45 S 6. Section 296 of the executive law is amended by adding a new
46 subdivision 22 to read as follows:

47 22. NO PROVISION OF THIS SECTION SHALL BE CONSTRUED TO PROHIBIT AN
48 OWNER, LESSEE, SUBLESSEE, ASSIGNEE, OR MANAGING AGENT OF ANY HOUSING
49 ACCOMMODATION, PUBLIC OR PRIVATE, OR OTHER PERSON HAVING THE RIGHT OF
50 OWNERSHIP OR POSSESSION OF OR THE RIGHT TO RENT OR LEASE SUCH AN ACCOM-
51 MODATION, FROM MAKING ANY INQUIRY OR OBTAINING OR RETAINING INFORMATION
52 ABOUT AN INDIVIDUAL'S DOMESTIC VIOLENCE VICTIM STATUS SOLELY FOR THE
53 PURPOSE OF:

54 (A) PROVIDING OR PRESERVING RESIDENCY IN ANY PUBLIC OR PRIVATE HOUSING
55 FOR THAT VICTIM OF DOMESTIC VIOLENCE;

1 (B) PROVIDING ANY OTHER ASSISTANCE TO A VICTIM OF DOMESTIC VIOLENCE,
2 THE PURPOSE OF WHICH IS TO ASSIST RATHER THAN TO HINDER OBTAINING OR
3 RETAINING ANY PUBLIC OR PRIVATE HOUSING; OR

4 (C) RESPONDING TO AN INQUIRY OR REQUEST BY AN APPLICANT, TENANT, OR
5 LEASEHOLDER WHO IS A VICTIM OF DOMESTIC VIOLENCE.

6 S 7. This act shall take effect on the ninetieth day after it shall
7 have become a law.