

6170

2009-2010 Regular Sessions

I N S E N A T E

September 18, 2009

Introduced by Sen. SCHNEIDERMAN -- read twice and ordered printed, and
when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to unlawful discriminatory
practices in housing based on lawful source of income

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 34 to read as follows:
3 34. THE TERM "LAWFUL SOURCE OF INCOME" SHALL INCLUDE, BUT NOT BE
4 LIMITED TO, THE FEDERAL HOUSING SUBSIDY KNOWN AS "SECTION EIGHT".
5 S 2. Paragraphs (a), (b), (c) and (c-1) of subdivision 2-a of section
6 296 of the executive law, paragraphs (a), (b) and (c) as amended and
7 paragraph (c-1) as added by chapter 106 of the laws of 2003, are amended
8 to read as follows:
9 (a) To refuse to sell, rent or lease or otherwise to deny to or with-
10 hold from any person or group of persons such housing accommodations
11 because of the race, creed, color, disability, national origin, sexual
12 orientation, military status, age, sex, marital status, *LAWFUL SOURCE OF*
13 *INCOME* or familial status of such person or persons, or to represent
14 that any housing accommodation or land is not available for inspection,
15 sale, rental or lease when in fact it is so available.
16 (b) To discriminate against any person because of his or her race,
17 creed, color, disability, national origin, sexual orientation, military
18 status, age, sex, marital status, *LAWFUL SOURCE OF INCOME* or familial
19 status in the terms, conditions or privileges of any publicly-assisted
20 housing accommodations or in the furnishing of facilities or services in
21 connection therewith.
22 (c) To cause to be made any written or oral inquiry or record concern-
23 ing the race, creed, color, disability, national origin, sexual orien-
24 tation, membership in the reserve armed forces of the United States or
25 in the organized militia of the state, age, sex, marital status, *LAWFUL*

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

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

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

16 S 3. Subparagraphs 1, 2 and 3 of paragraph (a) of subdivision 5 of
17 section 296 of the executive law, as amended by chapter 106 of the laws
18 of 2003, are amended to read as follows:

19 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold
20 from any person or group of persons such a housing accommodation because
21 of the race, creed, color, national origin, sexual orientation, military
22 status, sex, age, disability, marital status, LAWFUL SOURCE OF INCOME or
23 familial status of such person or persons, or to represent that any
24 housing accommodation or land is not available for inspection, sale,
25 rental or lease when in fact it is so available.

26 (2) To discriminate against any person because of race, creed, color,
27 national origin, sexual orientation, military status, sex, age, disabili-
28 ty, marital status, LAWFUL SOURCE OF INCOME or familial status in the
29 terms, conditions or privileges of the sale, rental or lease of any such
30 housing accommodation or in the furnishing of facilities or services in
31 connection therewith.

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

42 S 4. Subdivision 20 of section 296 of the executive law, as renumbered
43 by chapter 204 of the laws of 1996, is renumbered subdivision 21 and a
44 new subdivision 20 is added to read as follows:

45 20. THE PROVISIONS OF THIS SUBDIVISION, AS THEY RELATE TO UNLAWFUL
46 DISCRIMINATORY PRACTICES ON THE BASIS OF LAWFUL SOURCE OF INCOME, SHALL
47 NOT APPLY TO HOUSING ACCOMMODATIONS THAT CONTAIN A TOTAL OF FIVE OR
48 FEWER HOUSING UNITS, PROVIDED, HOWEVER:

49 (A) THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO TENANTS SUBJECT
50 TO RENT CONTROL LAWS WHO RESIDE IN HOUSING ACCOMMODATIONS THAT CONTAIN A
51 TOTAL OF FIVE OR FEWER UNITS AS OF THE EFFECTIVE DATE OF THIS SUBDIVI-
52 SION; AND PROVIDED, HOWEVER:

53 (B) THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO ALL HOUSING
54 ACCOMMODATIONS, REGARDLESS OF THE NUMBER OF UNITS CONTAINED IN EACH, OF
55 ANY PERSON WHO HAS THE RIGHT TO SELL, RENT OR LEASE OR APPROVE THE SALE,
56 RENTAL OR LEASE OF AT LEAST ONE HOUSING ACCOMMODATION WITHIN NEW YORK

1 STATE THAT CONTAINS SIX OR MORE HOUSING UNITS, CONSTRUCTED OR TO BE
2 CONSTRUCTED, OR AN INTEREST THEREIN.

3 S 5. The executive law is amended by adding a new section 298-b to
4 read as follows:

5 S 298-B. PUNITIVE PENALTIES FOR CERTAIN VIOLATIONS. NOTWITHSTANDING
6 ANY PROVISION OF LAW TO THE CONTRARY, IN ANY FINDING OF A VIOLATION OF
7 SUBDIVISION TWO-A OR SUBDIVISION FIVE OF SECTION TWO HUNDRED NINETY-SIX
8 OF THIS ARTICLE, WHERE SUCH VIOLATION INVOLVES DISCRIMINATION ON THE
9 BASIS OF LAWFUL SOURCE OF INCOME THE COMMISSIONER SHALL IMPOSE A PUNI-
10 TIVE PENALTY OF NOT LESS THAN TWENTY-FIVE HUNDRED DOLLARS AND NOT MORE
11 THAN FIVE THOUSAND DOLLARS AGAINST THE OWNER, LESSEE, SUB-LESSEE, ASSIG-
12 NEE, OR MANAGING AGENT OF SUCH HOUSING ACCOMMODATION FOUND IN VIOLATION.

13 S 6. This act shall take effect immediately and shall apply to all
14 causes of action filed on and after such effective date.