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

4367

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. GREENE, BENJAMIN, CASTRO, GOTTFRIED, KELLNER, MILLMAN, PERRY, ROSENTHAL, TITONE -- Multi-Sponsored by -- M. of A. CLARK, DIAZ, GLICK, JAFFEE, TOWNS, WEISENBERG -- read once and referred to the Committee on Governmental Operations

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:

Section 1. Section 292 of the executive law is amended by adding a new subdivision 34 to read as follows:

34. THE TERM "LAWFUL SOURCE OF INCOME" SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FEDERAL HOUSING SUBSIDY KNOWN AS "SECTION EIGHT".

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

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

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

(c) To cause to be made any written or oral inquiry or record concerning the race, creed, color, disability, national origin, sexual orien-

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

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

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

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

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

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

(3) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such housing accommodation or to make any record or inquiry in connection with the prospective purchase, rental or lease of such a housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, LAWFUL SOURCE OF INCOME or familial status, or any intent to make any such limitation, specification or discrimination.

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

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

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

(B) THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO ALL HOUSING ACCOMMODATIONS, REGARDLESS OF THE NUMBER OF UNITS CONTAINED IN EACH, OF

ANY PERSON WHO HAS THE RIGHT TO SELL, RENT OR LEASE OR APPROVE THE SALE, RENTAL OR LEASE OF AT LEAST ONE HOUSING ACCOMMODATION WITHIN NEW YORK STATE THAT CONTAINS SIX OR MORE HOUSING UNITS, CONSTRUCTED OR TO BE CONSTRUCTED, OR AN INTEREST THEREIN.

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

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

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