

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

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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 -- (at request of the Governor) -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to preventing housing discrimination against victims of domestic violence

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 "VICTIM OF DOMESTIC VIOLENCE" MEANS ANY PERSON WHO IS A
4 VICTIM OF AN ACT WHICH WOULD CONSTITUTE A VIOLENT FELONY OFFENSE AS
5 ENUMERATED IN SECTION 70.02 OF THE PENAL LAW OR A FAMILY OFFENSE AS
6 ENUMERATED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED TWELVE OF THE
7 FAMILY COURT ACT, WHERE SUCH ACT OR ACTS ARE OR ARE ALLEGED TO HAVE BEEN
8 COMMITTED BY A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS DEFINED IN
9 SUBDIVISION ONE OF SECTION EIGHT HUNDRED TWELVE OF THE FAMILY 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,
22 display, post or mail any written or printed communication, notice or
23 advertisement, to the effect that any of the accommodations, advantages,
24 facilities and privileges of any such place shall be refused, withheld

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

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1 from or denied to any person on account of race, creed, color, national
2 origin, sexual orientation, military status, sex, or disability [or],
3 marital status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or that the
4 patronage or custom thereof of any person of or purporting to be of any
5 particular race, creed, color, national origin, sexual orientation,
6 military status, sex [or], marital status, OR STATUS AS A VICTIM OF
7 DOMESTIC VIOLENCE, or having a disability is unwelcome, objectionable or
8 not acceptable, desired or solicited.

9 S 3. Paragraphs (a), (b), (c) and (c-1) of subdivision 2-a of section
10 296 of the executive law, paragraphs (a), (b) and (c) as amended and
11 paragraph (c-1) as added by chapter 106 of the laws of 2003, are amended
12 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or
18 persons, or to represent that any housing accommodation or land is not
19 available for inspection, sale, rental or lease when in fact it is so
20 available.

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

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

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

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

49 3-b. It shall be an unlawful discriminatory practice for any real
50 estate broker, real estate salesperson or employee or agent thereof or
51 any other individual, corporation, partnership or organization for the
52 purpose of inducing a real estate transaction from which any such person
53 or any of its stockholders or members may benefit financially, to repre-
54 sent that a change has occurred or will or may occur in the composition
55 with respect to race, creed, color, national origin, sexual orientation,
56 military status, sex, disability, marital status, [or] familial status,

1 OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of the owners or occupants in
2 the block, neighborhood or area in which the real property is located,
3 and to represent, directly or indirectly, that this change will or may
4 result in undesirable consequences in the block, neighborhood or area in
5 which the real property is located, including but not limited to the
6 lowering of property values, an increase in criminal or anti-social
7 behavior, or a decline in the quality of schools or other facilities.

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

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

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

26 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold
27 from any person or group of persons such a housing accommodation because
28 of the race, creed, color, national origin, sexual orientation, military
29 status, sex, age, disability, marital status, [or] familial status, OR
30 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to
31 represent that any housing accommodation or land is not available for
32 inspection, sale, rental or lease when in fact it is so available.

33 (2) To discriminate against any person because of race, creed, color,
34 national origin, sexual orientation, military status, sex, age, disabil-
35 ity, marital status, [or] familial status, OR STATUS AS A VICTIM OF
36 DOMESTIC VIOLENCE in the terms, conditions or privileges of the sale,
37 rental or lease of any such housing accommodation or in the furnishing
38 of facilities or services in connection therewith.

39 (3) 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 The provisions of this paragraph [(a)] shall not apply (1) to the
50 rental of a housing accommodation in a building which contains housing
51 accommodations for not more than two families living independently of
52 each other, if the owner resides in one of such housing accommodations,
53 (2) to the restriction of the rental of all rooms in a housing accommo-
54 dation to individuals of the same sex or (3) to the rental of a room or
55 rooms in a housing accommodation, if such rental is by the occupant of
56 the housing accommodation or by the owner of the housing accommodation

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

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

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

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

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

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

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

51 (1) To refuse to sell, rent or lease any housing accommodation, land
52 or commercial space to any person or group of persons or to refuse to
53 negotiate for the sale, rental or lease, of any housing accommodation,
54 land or commercial space to any person or group of persons because of
55 the race, creed, color, national origin, sexual orientation, military
56 status, sex, age, disability, marital status, [or] familial status, OR

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

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

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

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

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

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

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

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

1 (C) RESPONDING TO AN INQUIRY OR REQUEST BY AN APPLICANT, TENANT, OR
2 LEASEHOLDER WHO IS A VICTIM OF DOMESTIC VIOLENCE.
3 S 7. This act shall take effect on the ninetieth day after it shall
4 have become a law.