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I N S E N A T E

April 26, 2010

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

AN ACT to amend the real property law and the executive law, in relation to discrimination based upon the income of persons

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

- 1 Section 1. The real property law is amended by adding a new section
2 237-b to read as follows:
3 S 237-B. DISCRIMINATION BASED ON INCOME. 1. ANY PERSON, FIRM OR CORPO-
4 RATION OWNING OR HAVING IN CHARGE ANY APARTMENT, HOUSE, TENEMENT HOUSE,
5 OR OTHER BUILDING OR MANUFACTURED HOME PARK USED FOR DWELLING PURPOSES
6 SHALL NOT REFUSE TO RENT ANY OR PART OF ANY SUCH APARTMENT, HOUSE,
7 BUILDING OR MANUFACTURED HOME PARK TO ANY PERSON OR FAMILY, BASED ON
8 SUCH PERSON'S OR FAMILY'S ABILITY TO MAKE RENTAL PAYMENTS IF MONEY FOR
9 THOSE PAYMENTS ARE RECEIVED FROM A LAWFUL SOURCE OF INCOME.
10 2. THE TERM "LAWFUL SOURCE OF INCOME" SHALL INCLUDE, BUT NOT BE LIMIT-
11 ED TO, WAGES FROM EMPLOYMENT; CHILD SUPPORT; ALIMONY; FOSTER CARE SUBSI-
12 DIES; INCOME DERIVED FROM SOCIAL SECURITY, OR ANY FORM OF FEDERAL, STATE
13 OR LOCAL PUBLIC ASSISTANCE; HOUSING AND RENTAL SUBSIDIES AND ASSISTANCE,
14 INCLUDING SECTION 8 VOUCHERS; AS WELL AS SAVINGS, INVESTMENT AND TRUST
15 ACCOUNTS.
16 3. CIVIL LIABILITY:
17 (A) WHERE DISCRIMINATORY CONDUCT PROHIBITED BY THIS SECTION HAS
18 OCCURRED, AN AGGRIEVED INDIVIDUAL SHALL HAVE A CAUSE OF ACTION IN ANY
19 COURT OF APPROPRIATE JURISDICTION FOR DAMAGES, DECLARATORY AND INJUNC-
20 TIVE RELIEF;
21 (B) IN ALL ACTIONS BROUGHT UNDER THIS SECTION, REASONABLE ATTORNEY'S
22 FEES AS DETERMINED BY THE COURT MAY BE AWARDED TO A PREVAILING PLAIN-
23 TIFF.
24 S 2. Paragraphs (a), (b) and (c) of subdivision 2-a of section 296 of
25 the executive law, as amended by chapter 106 of the laws of 2003, are
26 amended to read as follows:
27 (a) To refuse to sell, rent or lease or otherwise to deny to or with-
28 hold from any person or group of persons such housing accommodations

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

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1 because of the race, creed, color, disability, national origin, sexual
2 orientation, military status, age, sex, marital status, [or] familial
3 status, OR SOURCE OF INCOME of such person or persons, or to represent
4 that any housing accommodation or land is not available for inspection,
5 sale, rental or lease when in fact it is so available.

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

12 (c) To cause to be made any written or oral inquiry or record concern-
13 ing the race, creed, color, disability, national origin, sexual orien-
14 tation, membership in the reserve armed forces of the United States or
15 in the organized militia of the state, age, sex, marital status, [or]
16 familial status, OR SOURCE OF INCOME of a person seeking to rent or
17 lease any publicly-assisted housing accommodation; provided, however,
18 that nothing in this subdivision shall prohibit a member of the reserve
19 armed forces of the United States or in the organized militia of the
20 state from voluntarily disclosing such membership.

21 S 3. Subdivision 5 of section 296 of the executive law, as amended by
22 chapter 106 of the laws of 2003, is amended to read as follows:

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

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

34 (2) To discriminate against any person because of race, creed, color,
35 national origin, sexual orientation, military status, sex, age, disabili-
36 ty, marital status, [or] familial status, OR SOURCE OF INCOME in the
37 terms, conditions or privileges of the sale, rental or lease of any such
38 housing accommodation or in the furnishing of facilities or services in
39 connection therewith.

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

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

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

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

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

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

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

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

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

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

1 status, sex, age, disability, marital status, [or] familial status, OR
2 SOURCE OF INCOME of such person or persons, or to represent that any
3 housing accommodation, land or commercial space is not available for
4 inspection, sale, rental or lease when in fact it is so available, or
5 otherwise to deny or withhold any housing accommodation, land or commer-
6 cial space or any facilities of any housing accommodation, land or
7 commercial space from any person or group of persons because of the
8 race, creed, color, national origin, sexual orientation, military
9 status, sex, age, disability, marital status, [or] familial status, OR
10 SOURCE OF INCOME of such person or 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 SOURCE OF INCOME;
20 or any intent to make any such limitation, specification or discrimi-
21 nation.

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 SOURCE OF INCOME of any individual who is otherwise
38 qualified for membership, to exclude or expel such individual from
39 membership, or to discriminate against such individual in the terms,
40 conditions and privileges of membership in such board.

41 (e) It shall be an unlawful discriminatory practice for the owner,
42 proprietor or managing agent of, or other person having the right to
43 provide care and services in, a private proprietary nursing home, conva-
44 lescent home, or home for adults, or an intermediate care facility, as
45 defined in section two of the social services law, heretofore
46 constructed, or to be constructed, or any agent or employee thereof, to
47 refuse to provide services and care in such home or facility to any
48 individual or to discriminate against any individual in the terms,
49 conditions, and privileges of such services and care solely because such
50 individual is a blind person. For purposes of this paragraph, a "blind
51 person" shall mean a person who is registered as a blind person with the
52 commission for the visually handicapped and who meets the definition of
53 a "blind person" pursuant to section three of chapter four hundred
54 fifteen of the laws of nineteen hundred thirteen entitled "An act to
55 establish a state commission for improving the condition of the blind of
56 the state of New York, and making an appropriation therefor".

1 (f) The provisions of this subdivision, as they relate to age, shall
2 not apply to persons under the age of eighteen years.

3 (g) It shall be an unlawful discriminatory practice for any person
4 offering or providing housing accommodations, land or commercial space
5 as described in paragraphs (a), (b), and (c) of this subdivision to make
6 or cause to be made any written or oral inquiry or record concerning
7 membership of any person in the state organized militia in relation to
8 the purchase, rental or lease of such housing accommodation, land, or
9 commercial space, provided, however, that nothing in this subdivision
10 shall prohibit a member of the state organized militia from voluntarily
11 disclosing such membership.

12 S 4. Section 292 of the executive law is amended by adding a new
13 subdivision 35 to read as follows:

14 35. THE TERMS "SOURCE OF INCOME" OR "LAWFUL SOURCE OF INCOME" SHALL
15 HAVE THE SAME MEANING AND SHALL INCLUDE, BUT NOT BE LIMITED TO, WAGES
16 FROM EMPLOYMENT; CHILD SUPPORT; ALIMONY; FOSTER CARE SUBSIDIES; INCOME
17 DERIVED FROM SOCIAL SECURITY, OR ANY FORM OF FEDERAL, STATE OR LOCAL
18 PUBLIC ASSISTANCE; HOUSING AND RENTAL SUBSIDIES AND ASSISTANCE, INCLUD-
19 ING SECTION 8 VOUCHERS; AS WELL AS SAVINGS, INVESTMENT AND TRUST
20 ACCOUNTS.

21 S 5. This act shall take effect immediately.