

3448

2011-2012 Regular Sessions

I N A S S E M B L Y

January 25, 2011

Introduced by M. of A. DESTITO, PAULIN, GALEF, SCHROEDER, M. MILLER,
GIBSON, CASTRO -- Multi-Sponsored by -- M. of A. DUPREY, McENENY --
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; and to repeal
certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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2 REPEALED and a new subdivision 34 is added to read as follows: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
18 A 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,

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

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

10 S 3. Paragraphs (a), (b), (c) and (c-1) of subdivision 2-a of section
11 296 of the executive law, paragraphs (a), (b) and (c) as amended and
12 paragraph (c-1) as added by chapter 106 of the laws of 2003, are amended
13 to read as follows:

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

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

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

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

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

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

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

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

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

23 (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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to
32 represent that any housing accommodation or land is not available for
33 inspection, sale, 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 STATUS AS A VICTIM OF
37 DOMESTIC VIOLENCE in the terms, conditions or privileges of the sale,
38 rental or lease of any such housing accommodation or in the furnishing
39 of facilities or services in 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or any
49 intent to make any such 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to
20 represent that any housing accommodation or land is not available for
21 inspection, sale, 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, disabili-
24 ty, marital status, [or] familial status, OR STATUS AS A VICTIM OF
25 DOMESTIC VIOLENCE in the terms, conditions or privileges of the sale,
26 rental or lease of any such land or commercial space; or in the furnish-
27 ing of facilities or services 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE; or any
37 intent to make any such 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to
3 represent that any housing accommodation, land or commercial space is
4 not available for inspection, sale, rental or lease when in fact it is
5 so available, or otherwise to deny or withhold any housing accommo-
6 dation, land or commercial space or any facilities of any housing accom-
7 modation, land or commercial space from any person or group of persons
8 because of the race, creed, color, national origin, sexual orientation,
9 military status, sex, age, disability, marital status, [or] familial
10 status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or
11 persons.

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

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

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

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

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

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

54 (B) PROVIDING ANY OTHER ASSISTANCE TO A VICTIM OF DOMESTIC VIOLENCE,
55 THE PURPOSE OF WHICH IS TO ASSIST RATHER THAN TO HINDER OBTAINING OR
56 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.