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I N   A S S E M B L Y

January 17, 2012

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Introduced by M. of A. ENGLEBRIGHT -- 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2     REPEALED and a new subdivision 34 is added to read as follows: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" SHALL HAVE THE SAME MEANING  
4     AS IS ASCRIBED TO SUCH TERM BY SECTION FOUR HUNDRED FIFTY-NINE-A OF THE  
5     SOCIAL SERVICES LAW.

6     S 2. Paragraph (a) of subdivision 2 of section 296 of the executive  
7     law, as amended by chapter 106 of the laws of 2003, is amended to read  
8     as follows:

9     (a) It shall be an unlawful discriminatory practice for any person,  
10    being the owner, lessee, proprietor, manager, superintendent, agent or  
11    employee of any place of public accommodation, resort or amusement,  
12    because of the race, creed, color, national origin, sexual orientation,  
13    military status, sex, [or] disability [or], marital status, OR STATUS AS  
14    A VICTIM OF DOMESTIC VIOLENCE of any person, directly or indirectly, to  
15    refuse, withhold from or deny to such person any of the accommodations,  
16    advantages, facilities or privileges thereof, including the extension of  
17    credit, or, directly or indirectly, to publish, circulate, issue,  
18    display, post or mail any written or printed communication, notice or  
19    advertisement, to the effect that any of the accommodations, advantages,  
20    facilities and privileges of any such place shall be refused, withheld  
21    from or denied to any person on account of race, creed, color, national  
22    origin, sexual orientation, military status, sex, [or] disability [or],  
23    marital status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or that the  
24    patronage or custom thereat of any person of or purporting to be of any  
25    particular race, creed, color, national origin, sexual orientation,  
26    military status, sex [or], marital status, OR STATUS AS A VICTIM OF

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

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1 DOMESTIC VIOLENCE, or having a disability is unwelcome, objectionable or  
2 not acceptable, desired or solicited.

3 S 3. Paragraphs (a), (b), (c) and (c-1) of subdivision 2-a of section  
4 296 of the executive law, paragraphs (a), (b) and (c) as amended and  
5 paragraph (c-1) as added by chapter 106 of the laws of 2003, are amended  
6 to read as follows:

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

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

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

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

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

43 3-b. It shall be an unlawful discriminatory practice for any real  
44 estate broker, real estate salesperson or employee or agent thereof or  
45 any other individual, corporation, partnership or organization for the  
46 purpose of inducing a real estate transaction from which any such person  
47 or any of its stockholders or members may benefit financially, to repre-  
48 sent that a change has occurred or will or may occur in the composition  
49 with respect to race, creed, color, national origin, sexual orientation,  
50 military status, sex, disability, marital status, [or] familial status,  
51 OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of the owners or occupants in  
52 the block, neighborhood or area in which the real property is located,  
53 and to represent, directly or indirectly, that this change will or may  
54 result in undesirable consequences in the block, neighborhood or area in  
55 which the real property is located, including but not limited to the

lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

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

S 5. Paragraphs (a), (b), (c) and (d) 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:

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

(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, [or] familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE 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, [or] familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE 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, [or] familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or any intent to make any such limitation, specification or discrimination.

The provisions of this paragraph [(a)] shall not apply (1) to the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner resides in one of such housing accommodations, (2) to the restriction of the rental of all rooms in a housing accommodation to individuals of the same sex or (3) to the rental of a room or rooms in a housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner resides in such housing accommodation or (4) solely with respect to age and familial status to the restriction of the sale, rental or lease of housing accommodations exclusively to persons sixty-two years of age or older and the spouse of any such person, or for housing intended and operated for occupancy by at least one person

1 fifty-five years of age or older per unit. In determining whether hous-  
2 ing is intended and operated for occupancy by persons fifty-five years  
3 of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the  
4 federal Fair Housing Act of 1988, as amended, shall apply.

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

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

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

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

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

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

46 (1) To refuse to sell, rent or lease any housing accommodation, land  
47 or commercial space to any person or group of persons or to refuse to  
48 negotiate for the sale, rental or lease, of any housing accommodation,  
49 land or commercial space to any person or group of persons because of  
50 the race, creed, color, national origin, sexual orientation, military  
51 status, sex, age, disability, marital status, [or] familial status, OR  
52 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to  
53 represent that any housing accommodation, land or commercial space is  
54 not available for inspection, sale, rental or lease when in fact it is  
55 so available, or otherwise to deny or withhold any housing accommo-  
56 dation, land or commercial space or any facilities of any housing accom-

1 modulation, land or commercial space from any person or group of persons  
2 because of the race, creed, color, national origin, sexual orientation,  
3 military status, sex, age, disability, marital status, [or] familial  
4 status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or  
5 persons.

6 (2) 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 any housing accommodation,  
9 land or commercial space or to make any record or inquiry in connection  
10 with the prospective purchase, rental or lease of any housing accommo-  
11 dation, land or commercial space which expresses, directly or indirect-  
12 ly, any limitation, specification, or discrimination as to race, creed,  
13 color, national origin, sexual orientation, military status, sex, age,  
14 disability, marital status, [or] familial status, OR STATUS AS A VICTIM  
15 OF DOMESTIC VIOLENCE; or any intent to make any such limitation, spec-  
16 ification or discrimination.

17 (3) With respect to age and familial status, the provisions of this  
18 paragraph shall not apply to the restriction of the sale, rental or  
19 lease of any land or commercial space exclusively to persons fifty-five  
20 years of age or older and the spouse of any such person, or to the  
21 restriction of the sale, rental or lease of any housing accommodation or  
22 land to be used for the construction or location of housing accommo-  
23 dations for persons sixty-two years of age or older, or intended and  
24 operated for occupancy by at least one person fifty-five years of age or  
25 older per unit. In determining whether housing is intended and operated  
26 for occupancy by persons fifty-five years of age or older, Sec. 807 (b)

27 (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of  
28 1988, as amended, shall apply.

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

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

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

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

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

51 (C) RESPONDING TO AN INQUIRY OR REQUEST BY AN APPLICANT, TENANT, OR  
52 LEASEHOLDER WHO IS A VICTIM OF DOMESTIC VIOLENCE.

53 S 7. This act shall take effect on the ninetieth day after it shall  
54 have become a law.