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

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I N A S S E M B L Y

April 20, 2012

Introduced by M. of A. PEOPLES-STOKES, STEVENSON, ENGLEBRIGHT -- (at request of the Division of Human Rights) -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to providing that there is no exemption from the requirement of nondiscrimination in advertisements and inquiries for the rental of an apartment in an owner-occupied two-unit dwelling, or for the rental of rooms in an owner-occupied dwelling, and that engaging in discriminatory advertising or inquiries will cause the property to no longer be exempt from full coverage by the nondiscrimination provisions of the human rights law

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

Section 1. Paragraph (a) of subdivision 5 of section 296 of the executive law, as amended by chapter 106 of the laws of 2003, is 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 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 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 applica-

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

LBD14459-01-2

tion 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 any intent to make any such limitation, specification or discrimination.

(4) (I) The provisions OF SUBPARAGRAPHS ONE AND TWO 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, OR (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 fifty-five years of age or older per unit. In determining whether housing is intended and operated for occupancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall apply]. HOWEVER, SUCH RENTAL PROPERTY SHALL NO LONGER BE EXEMPT FROM THE PROVISIONS OF SUCH SUBPARAGRAPHS ONE AND TWO IF THERE IS UNLAWFUL DISCRIMINATORY CONDUCT PURSUANT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH.

(II) THE PROVISIONS OF SUBPARAGRAPHS ONE, TWO AND THREE OF THIS PARAGRAPH SHALL NOT APPLY (1) TO THE RESTRICTION OF THE RENTAL OF ALL ROOMS IN A HOUSING ACCOMMODATION TO INDIVIDUALS OF THE SAME SEX OR (2) 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 FIFTY-FIVE YEARS OF AGE OR OLDER PER UNIT. IN DETERMINING WHETHER HOUSING IS INTENDED AND OPERATED FOR OCCUPANCY BY PERSONS FIFTY-FIVE YEARS OF AGE OR OLDER, SEC. 807(B) (2) (C) (42 U.S.C. 3607 (B) (2) (C)) OF THE FEDERAL FAIR HOUSING ACT OF 1988, AS AMENDED, SHALL APPLY.

S 2. This act shall take effect immediately.