

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

(PREFILED)

January 5, 2011

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Introduced by M. of A. BING, MILLMAN, ROSENTHAL, GOTTFRIED, CASTRO, ROBINSON, GIBSON, SPANO, KAVANAGH, ORTIZ, CAMARA, P. RIVERA -- Multi-Sponsored by -- M. of A. ARROYO, AUBRY, CAHILL, CASTELLI, CRESPO, FARRELL, GLICK, LATIMER, SCHIMEL -- read once and referred to the Committee on Housing -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend 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. Section 292 of the executive law is amended by adding a new  
2     subdivision 35 to read as follows:  
3     35. THE TERM "SOURCE OF INCOME" SHALL INCLUDE: WAGES FROM LAWFUL  
4     EMPLOYMENT; CHILD SUPPORT; ALIMONY; FOSTER CARE SUBSIDIES; INCOME  
5     DERIVED FROM SOCIAL SECURITY, OR ANY FORM OF FEDERAL, STATE OR LOCAL  
6     PUBLIC ASSISTANCE; HOUSING AND RENTAL SUBSIDIES AND ASSISTANCE, INCLUD-  
7     ING SECTION 8 VOUCHERS; SAVINGS, INVESTMENT AND TRUST ACCOUNTS; AND ANY  
8     OTHER FORMS OF LAWFUL INCOME.  
9     S 2. Paragraph (a) of subdivision 2 of section 296 of the executive  
10    law, as amended by chapter 106 of the laws of 2003, is amended to read  
11    as follows:  
12    (a) It shall be an unlawful discriminatory practice for any person,  
13    being the owner, lessee, proprietor, manager, superintendent, agent or  
14    employee of any place of public accommodation, resort or amusement,  
15    because of the race, creed, color, national origin, sexual orientation,  
16    military status, sex, SOURCE OF INCOME, or disability or marital status  
17    of any person, directly or indirectly, to refuse, withhold from or deny  
18    to such person any of the accommodations, advantages, facilities or  
19    privileges thereof, including the extension of credit, or, directly or  
20    indirectly, to publish, circulate, issue, display, post or mail any

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

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1 written or printed communication, notice or advertisement, to the effect  
2 that any of the accommodations, advantages, facilities and privileges of  
3 any such place shall be refused, withheld from or denied to any person  
4 on account of race, creed, color, national origin, sexual orientation,  
5 military status, sex, SOURCE OF INCOME, or disability or marital status,  
6 or that the patronage or custom thereof of any person of or purporting  
7 to be of any particular race, creed, color, national origin, sexual  
8 orientation, military status, SOURCE OF INCOME, sex or marital status,  
9 or having a disability is unwelcome, objectionable or not acceptable,  
10 desired or solicited.

11 S 3. Paragraphs (a), (b) and (c) of subdivision 2-a of section 296 of  
12 the executive law, as amended by chapter 106 of the laws of 2003, are  
13 amended 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 SOURCE OF INCOME of such person or persons, or to represent  
19 that any housing accommodation or land is not available for inspection,  
20 sale, rental or lease when in fact it is so 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 SOURCE OF  
24 INCOME in the terms, conditions or privileges of any publicly-assisted  
25 housing accommodations or in the furnishing of facilities or services in  
26 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 SOURCE OF INCOME of a person seeking to rent or  
32 lease any publicly-assisted housing accommodation; provided, however,  
33 that nothing in this subdivision shall prohibit a member of the reserve  
34 armed forces of the United States or in the organized militia of the  
35 state from voluntarily disclosing such membership.

36 S 4. Subdivision 5 of section 296 of the executive law, as amended by  
37 chapter 106 of the laws of 2003, is amended to read as follows:

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

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

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

55 (3) To print or circulate or cause to be printed or circulated any  
56 statement, advertisement or publication, or to use any form of applica-

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 SOURCE OF INCOME, 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 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.

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

(1) To refuse to sell, rent, lease or otherwise deny to or withhold from any person or group of persons land or commercial space because of the race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, [or] familial status, OR SOURCE OF INCOME 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 SOURCE OF INCOME in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial space; 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 land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of such land or commercial space 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 SOURCE OF INCOME; or any intent to make any such limitation, specification or discrimination.

(4) With respect to age and familial status, the provisions of this paragraph shall not apply to the restriction of the sale, rental or lease of land or commercial space exclusively to persons fifty-five years of age or older and the spouse of any such person, or to the

1 restriction of the sale, rental or lease of land to be used for the  
2 construction, or location of housing accommodations exclusively for  
3 persons sixty-two years of age or older, or intended and operated for  
4 occupancy by at least one person fifty-five years of age or older per  
5 unit. In determining whether housing is intended and operated for occu-  
6 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)  
7 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as  
8 amended, shall apply.

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

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

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

37 (3) 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 any 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 any housing accommodation or  
42 land to be used for the construction or location of housing accommo-  
43 dations for persons sixty-two years of age or older, or intended and  
44 operated for occupancy by at least one person fifty-five years of age or  
45 older per unit. In determining whether housing is intended and operated  
46 for occupancy by persons fifty-five years of age or older, Sec. 807 (b)  
47 (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of  
48 1988, as amended, shall apply.

49 (d) It shall be an unlawful discriminatory practice for any real  
50 estate board, because of the race, creed, color, national origin, sexual  
51 orientation, military status, age, sex, disability, marital status, [or]  
52 familial status, OR SOURCE OF INCOME of any individual who is otherwise  
53 qualified for membership, to exclude or expel such individual from  
54 membership, or to discriminate against such individual in the terms,  
55 conditions and privileges of membership in such board.

1 (e) It shall be an unlawful discriminatory practice for the owner,  
2 proprietor or managing agent of, or other person having the right to  
3 provide care and services in, a private proprietary nursing home, conva-  
4 lescent home, or home for adults, or an intermediate care facility, as  
5 defined in section two of the social services law, heretofore  
6 constructed, or to be constructed, or any agent or employee thereof, to  
7 refuse to provide services and care in such home or facility to any  
8 individual or to discriminate against any individual in the terms,  
9 conditions, and privileges of such services and care solely because such  
10 individual is a blind person. For purposes of this paragraph, a "blind  
11 person" shall mean a person who is registered as a blind person with the  
12 commission for the visually handicapped and who meets the definition of  
13 a "blind person" pursuant to section three of chapter four hundred  
14 fifteen of the laws of nineteen hundred thirteen entitled "An act to  
15 establish a state commission for improving the condition of the blind of  
16 the state of New York, and making an appropriation therefor".

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

19 (g) It shall be an unlawful discriminatory practice for any person  
20 offering or providing housing accommodations, land or commercial space  
21 as described in paragraphs (a), (b), and (c) of this subdivision to make  
22 or cause to be made any written or oral inquiry or record concerning  
23 membership of any person in the state organized militia in relation to  
24 the purchase, rental or lease of such housing accommodation, land, or  
25 commercial space, provided, however, that nothing in this subdivision  
26 shall prohibit a member of the state organized militia from voluntarily  
27 disclosing such membership.

28 S 5. Section 296 of the executive law is amended by adding a new  
29 subdivision 22 to read as follows:

30 22. (A) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS TWO, TWO-A, AND  
31 FIVE OF THIS SECTION RELATING TO THE PROHIBITION OF UNLAWFUL DISCRIMINA-  
32 TORY PRACTICES BASED ON SOURCE OF INCOME, SUCH PROVISIONS SHALL NOT  
33 APPLY TO HOUSING ACCOMMODATIONS THAT CONTAIN A TOTAL OF FIVE OR FEWER  
34 HOUSING UNITS LOCATED WITHIN A MUNICIPALITY THAT HAD A LOCAL LAW  
35 PERTAINING TO SUCH DISCRIMINATORY PRACTICES, WHICH EXEMPTED HOUSING  
36 ACCOMMODATIONS THAT CONTAINED FIVE OR FEWER HOUSING UNITS FROM SUCH  
37 PROHIBITION, IN EXISTENCE PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVI-  
38 SION, PROVIDED, HOWEVER, THAT IF SUCH LOCAL LAW IS REPEALED AFTER THE  
39 EFFECTIVE DATE OF THIS SUBDIVISION, THE PROVISIONS OF THIS SECTION  
40 RELATING TO THE PROHIBITION OF UNLAWFUL DISCRIMINATORY PRACTICES BASED  
41 ON SOURCE OF INCOME SHALL APPLY TO SUCH HOUSING ACCOMMODATIONS.

42 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-  
43 SION, THE PROVISIONS OF SUBDIVISIONS TWO, TWO-A, AND FIVE OF THIS  
44 SECTION RELATING TO THE PROHIBITION OF UNLAWFUL DISCRIMINATORY PRACTICES  
45 BASED ON SOURCE OF INCOME SHALL APPLY (I) TO TENANTS SUBJECT TO RENT  
46 CONTROL LAWS WHO RESIDE IN HOUSING ACCOMMODATIONS THAT CONTAIN A TOTAL  
47 OF FIVE OR FEWER UNITS AS OF THE EFFECTIVE DATE OF THIS SUBDIVISION; AND  
48 (II) TO ALL HOUSING ACCOMMODATIONS, REGARDLESS OF THE NUMBER OF UNITS  
49 CONTAINED IN EACH, OF ANY OWNER OR ANY AGENT THEREOF WHO HAS THE RIGHT  
50 TO SELL, RENT OR LEASE OR APPROVE THE SALE, RENTAL OR LEASE OF AT LEAST  
51 ONE HOUSING ACCOMMODATION WITHIN THE STATE OF NEW YORK THAT CONTAINS SIX  
52 OR MORE HOUSING UNITS, CONSTRUCTED OR TO BE CONSTRUCTED, OR AN INTEREST  
53 THEREIN.

54 S 6. This act shall take effect immediately.