

5437

2013-2014 Regular Sessions

I N A S S E M B L Y

February 27, 2013

Introduced by M. of A. CRESPO, RODRIGUEZ, CASTRO, RAMOS, ESPINAL, ROSA, RIVERA, ARROYO, SEPULVEDA, MOYA -- read once and referred to the Committee on Governmental Operations

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  
21 written or printed communication, notice or advertisement, to the effect  
22 that any of the accommodations, advantages, facilities and privileges of  
23 any such place shall be refused, withheld from or denied to any person  
24 on account of race, creed, color, national origin, sexual orientation,

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

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1 military status, sex, SOURCE OF INCOME, or disability or marital status,  
2 or that the patronage or custom thereof of any person of or purporting  
3 to be of any particular race, creed, color, national origin, sexual  
4 orientation, military status, SOURCE OF INCOME, sex or marital status,  
5 or having a disability is unwelcome, objectionable or not acceptable,  
6 desired or solicited.

7 S 3. Paragraphs (a), (b) and (c) of subdivision 2-a of section 296 of  
8 the executive law, as amended by chapter 106 of the laws of 2003, are  
9 amended to read as follows:

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

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

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

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

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

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

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

51 (3) To print or circulate or cause to be printed or circulated any  
52 statement, advertisement or publication, or to use any form of applica-  
53 tion for the purchase, rental or lease of such housing accommodation or  
54 to make any record or inquiry in connection with the prospective  
55 purchase, rental or lease of such a housing accommodation which  
56 expresses, directly or indirectly, any limitation, specification or

1 discrimination as to race, creed, color, national origin, sexual orien-  
2 tation, military status, sex, age, disability, marital status, [or]  
3 familial status, OR SOURCE OF INCOME, or any intent to make any such  
4 limitation, specification or discrimination.

5 The provisions of this paragraph [(a)] shall not apply (1) to the  
6 rental of a housing accommodation in a building which contains housing  
7 accommodations for not more than two families living independently of  
8 each other, if the owner resides in one of such housing accommodations,  
9 (2) to the restriction of the rental of all rooms in a housing accommo-  
10 dation to individuals of the same sex or (3) to the rental of a room or  
11 rooms in a housing accommodation, if such rental is by the occupant of  
12 the housing accommodation or by the owner of the housing accommodation  
13 and the owner resides in such housing accommodation or (4) solely with  
14 respect to age and familial status to the restriction of the sale,  
15 rental or lease of housing accommodations exclusively to persons sixty-  
16 two years of age or older and the spouse of any such person, or for  
17 housing intended and operated for occupancy by at least one person  
18 fifty-five years of age or older per unit. In determining whether hous-  
19 ing is intended and operated for occupancy by persons fifty-five years  
20 of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the  
21 federal Fair Housing Act of 1988, as amended, shall apply.

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

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

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

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

49 (4) With respect to age and familial status, the provisions of this  
50 paragraph shall not apply to the restriction of the sale, rental or  
51 lease of land or commercial space exclusively to persons fifty-five  
52 years of age or older and the spouse of any such person, or to the  
53 restriction of the sale, rental or lease of land to be used for the  
54 construction, or location of housing accommodations exclusively for  
55 persons sixty-two years of age or older, or intended and operated for  
56 occupancy by at least one person fifty-five years of age or older per

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

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

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

22 (2) 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 any housing accommodation,  
25 land or commercial space or to make any record or inquiry in connection  
26 with the prospective purchase, rental or lease of any housing accommo-  
27 dation, land or commercial space which expresses, directly or indirect-  
28 ly, any limitation, specification, or discrimination as to race, creed,  
29 color, national origin, sexual orientation, military status, sex, age,  
30 disability, marital status, [or] familial status, OR SOURCE OF INCOME;  
31 or any intent to make any such limitation, specification or discrimi-  
32 nation.

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

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

52 (e) It shall be an unlawful discriminatory practice for the owner,  
53 proprietor or managing agent of, or other person having the right to  
54 provide care and services in, a private proprietary nursing home, conva-  
55 lescent home, or home for adults, or an intermediate care facility, as  
56 defined in section two of the social services law, heretofore

1 constructed, or to be constructed, or any agent or employee thereof, to  
2 refuse to provide services and care in such home or facility to any  
3 individual or to discriminate against any individual in the terms,  
4 conditions, and privileges of such services and care solely because such  
5 individual is a blind person. For purposes of this paragraph, a "blind  
6 person" shall mean a person who is registered as a blind person with the  
7 commission for the visually handicapped and who meets the definition of  
8 a "blind person" pursuant to section three of chapter four hundred  
9 fifteen of the laws of nineteen hundred thirteen entitled "An act to  
10 establish a state commission for improving the condition of the blind of  
11 the state of New York, and making an appropriation therefor".

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

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

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

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

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

49 S 6. This act shall take effect immediately.