

2039

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. STEVENSON -- Multi-Sponsored by -- M. of A. ARROYO, BRENNAN, COOK, GOTTFRIED, JAFFEE, ROBINSON, SCARBOROUGH, WEPRIN -- 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 ASSEMBLY, 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2 REPEALED and a new subdivision 34 is added to read as follows: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,

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

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

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

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

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

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

39 (c-1) 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 housing accommodation or  
42 to make any record or inquiry in connection with the prospective  
43 purchase, rental or lease of such a housing accommodation 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or any  
48 intent to make any such limitation, specification or discrimination.

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

52 3-b. It shall be an unlawful discriminatory practice for any real  
53 estate broker, real estate salesperson or employee or agent thereof or  
54 any other individual, corporation, partnership or organization for the  
55 purpose of inducing a real estate transaction from which any such person  
56 or any of its stockholders or members may benefit financially, to repre-

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

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

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

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

29 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold  
30 from any person or group of persons such a housing accommodation because  
31 of the race, creed, color, national origin, sexual orientation, military  
32 status, sex, age, disability, marital status, [or] familial status, OR  
33 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to  
34 represent that any housing accommodation or land is not available for  
35 inspection, sale, rental or lease when in fact it is so available.

36 (2) To discriminate against any person because of race, creed, color,  
37 national origin, sexual orientation, military status, sex, age, disabili-  
38 ty, marital status, [or] familial status, OR STATUS AS A VICTIM OF  
39 DOMESTIC VIOLENCE in the terms, conditions or privileges of the sale,  
40 rental or lease of any such housing accommodation or in the furnishing  
41 of facilities or services in connection therewith.

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

52 The provisions of this paragraph [(a)] shall not apply (1) to the  
53 rental of a housing accommodation in a building which contains housing  
54 accommodations for not more than two families living independently of  
55 each other, if the owner resides in one of such housing accommodations,  
56 (2) to the restriction of the rental of all rooms in a housing accommo-

1 dation to individuals of the same sex or (3) to the rental of a room or  
2 rooms in a housing accommodation, if such rental is by the occupant of  
3 the housing accommodation or by the owner of the housing accommodation  
4 and the owner resides in such housing accommodation or (4) solely with  
5 respect to age and familial status to the restriction of the sale,  
6 rental or lease of housing accommodations exclusively to persons sixty-  
7 two years of age or older and the spouse of any such person, or for  
8 housing intended and operated for occupancy by at least one person  
9 fifty-five years of age or older per unit. In determining whether hous-  
10 ing is intended and operated for occupancy by persons fifty-five years  
11 of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the  
12 federal Fair Housing Act of 1988, as amended, shall apply.

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

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

24 (2) To discriminate against any person because of race, creed, color,  
25 national origin, sexual orientation, military status, sex, age, disabil-  
26 ity, marital status, [or] familial status, OR STATUS AS A VICTIM OF  
27 DOMESTIC VIOLENCE in the terms, conditions or privileges of the sale,  
28 rental or lease of any such land or commercial space; or in the furnish-  
29 ing of facilities or services in connection therewith;

30 (3) 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 land or commercial space  
33 or to make any record or inquiry in connection with the prospective  
34 purchase, rental or lease of such land or commercial space 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 (4) With respect to age and familial status, the provisions of this  
41 paragraph shall not apply to the restriction of the sale, rental or  
42 lease of land or commercial space exclusively to persons fifty-five  
43 years of age or older and the spouse of any such person, or to the  
44 restriction of the sale, rental or lease of land to be used for the  
45 construction, or location of housing accommodations exclusively for  
46 persons sixty-two years of age or older, or intended and operated for  
47 occupancy by at least one person fifty-five years of age or older per  
48 unit. In determining whether housing is intended and operated for occu-  
49 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)  
50 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as  
51 amended, shall apply.

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

54 (1) To refuse to sell, rent or lease any housing accommodation, land  
55 or commercial space to any person or group of persons or to refuse to  
56 negotiate for the sale, rental or lease, of any housing accommodation,

1 land or commercial space to any person or group of persons because of  
2 the race, creed, color, national origin, sexual orientation, military  
3 status, sex, age, disability, marital status, [or] familial status, OR  
4 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to  
5 represent that any housing accommodation, land or commercial space is  
6 not available for inspection, sale, rental or lease when in fact it is  
7 so available, or otherwise to deny or withhold any housing accommo-  
8 dation, land or commercial space or any facilities of any housing accom-  
9 modation, land or commercial space from any person or group of persons  
10 because of the race, creed, color, national origin, sexual orientation,  
11 military status, sex, age, disability, marital status, [or] familial  
12 status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or  
13 persons.

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

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

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

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

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

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

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

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

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