

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 9, 2013

Introduced by M. of A. ESPINAL -- 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, INCLUDING SECTION 8 VOUCHERS; SAVINGS, INVESTMENT AND TRUST ACCOUNTS; AND ANY
7 OTHER FORMS OF LAWFUL INCOME.
8
9 S 2. Paragraphs (a), (b) and (c) of subdivision 2-a of section 296 of
10 the executive law, as amended by chapter 106 of the laws of 2003, are
11 amended to read as follows:
12 (a) To refuse to sell, rent or lease or otherwise to deny to or withhold from any person or group of persons such housing accommodations
13 because of the race, creed, color, disability, national origin, sexual
14 orientation, military status, age, sex, marital status, [or] familial
15 status, OR SOURCE OF INCOME of such person or persons, or to represent
16 that any housing accommodation or land is not available for inspection,
17 sale, rental or lease when in fact it is so available.
18 (b) To discriminate against any person because of his or her race,
19 creed, color, disability, national origin, sexual orientation, military
20 status, age, sex, marital status, [or] familial status, OR SOURCE OF
21 INCOME in the terms, conditions or privileges of any publicly-assisted
22 housing accommodations or in the furnishing of facilities or services in
23 connection therewith.
24

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

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1 (c) To cause to be made any written or oral inquiry or record concern-
2 ing the race, creed, color, disability, national origin, sexual orien-
3 tation, membership in the reserve armed forces of the United States or
4 in the organized militia of the state, age, sex, marital status, [or]
5 familial status, OR SOURCE OF INCOME of a person seeking to rent or
6 lease any publicly-assisted housing accommodation; provided, however,
7 that nothing in this subdivision shall prohibit a member of the reserve
8 armed forces of the United States or in the organized militia of the
9 state from voluntarily disclosing such membership, AND PROVIDED FURTHER,
10 HOWEVER, THAT THE PROVISIONS OF THIS PARAGRAPH SHALL NOT BE CONSTRUED TO
11 PREVENT AN OWNER, LESSEE, SUB-LESSEE, ASSIGNEE OR MANAGING AGENT FROM
12 OBTAINING A CREDIT REPORT DETAILING SUCH PERSON'S CREDIT WORTHINESS.

13 S 3. Subdivision 5 of section 296 of the executive law, as amended by
14 chapter 106 of the laws of 2003, is amended to read as follows:

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

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

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

32 (3) To print or circulate or cause to be printed or circulated any
33 statement, advertisement or publication, or to use any form of applica-
34 tion for the purchase, rental or lease of such housing accommodation or
35 to make any record or inquiry in connection with the prospective
36 purchase, rental or lease of such a housing accommodation which
37 expresses, directly or indirectly, any limitation, specification or
38 discrimination as to race, creed, color, national origin, sexual orien-
39 tation, military status, sex, age, disability, marital status, [or]
40 familial status, OR SOURCE OF INCOME, or any intent to make any such
41 limitation, specification or discrimination, PROVIDED, HOWEVER, THAT THE
42 PROVISIONS OF THIS SUBPARAGRAPH SHALL NOT BE CONSTRUED TO PREVENT AN
43 OWNER, LESSEE, SUB-LESSEE, ASSIGNEE, OR MANAGING AGENT OF, OR OTHER
44 PERSON HAVING THE RIGHT TO SELL, RENT OR LEASE A HOUSING ACCOMMODATION,
45 CONSTRUCTED OR TO BE CONSTRUCTED, OR ANY AGENT OR EMPLOYEE THEREOF FROM
46 OBTAINING A CREDIT REPORT DETAILING THE CREDIT WORTHINESS OF ANY
47 PROSPECTIVE INDIVIDUALS SEEKING TO PURCHASE, RENT OR LEASE A HOUSING
48 ACCOMMODATION.

49 The provisions of this paragraph [(a)] shall not apply (1) to the
50 rental of a housing accommodation in a building which contains housing
51 accommodations for not more than two families living independently of
52 each other, if the owner resides in one of such housing accommodations,
53 (2) to the restriction of the rental of all rooms in a housing accommo-
54 dation to individuals of the same sex or (3) to the rental of a room or
55 rooms in a housing accommodation, if such rental is by the occupant of
56 the housing accommodation or by the owner of the housing accommodation

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

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

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

21 (2) To discriminate against any person because of race, creed, color,
22 national origin, sexual orientation, military status, sex, age, disabil-
23 ity, marital status, [or] familial status, OR SOURCE OF INCOME in the
24 terms, conditions or privileges of the sale, rental or lease of any such
25 land or commercial space; or in the furnishing of facilities or services
26 in connection therewith;

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

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

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

51 (1) To refuse to sell, rent or lease any housing accommodation, land
52 or commercial space to any person or group of persons or to refuse to
53 negotiate for the sale, rental or lease, of any housing accommodation,
54 land or commercial space to any person or group of persons because of
55 the race, creed, color, national origin, sexual orientation, military
56 status, sex, age, disability, marital status, [or] familial status, OR

1 SOURCE OF INCOME of such person or persons, or to represent that any
2 housing accommodation, land or commercial space is not available for
3 inspection, sale, rental or lease when in fact it is so available, or
4 otherwise to deny or withhold any housing accommodation, land or commercial space or any facilities of any housing accommodation, land or
5 commercial space from any person or group of persons because of the
6 race, creed, color, national origin, sexual orientation, military
7 status, sex, age, disability, marital status, [or] familial status, OR
8 SOURCE OF INCOME of such person or persons.

9 (2) To print or circulate or cause to be printed or circulated any
10 statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of any housing accommodation,
11 land or commercial space or to make any record or inquiry in connection
12 with the prospective purchase, rental or lease of any housing accommodation, land or commercial space which expresses, directly or indirectly,
13 any limitation, specification, or discrimination as to race, creed,
14 color, national origin, sexual orientation, military status, sex, age,
15 disability, marital status, [or] familial status, OR SOURCE OF INCOME;
16 or any intent to make any such limitation, specification 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 accommodations for persons sixty-two years of age or older, or intended and
23 operated for occupancy by at least one person fifty-five years of age or
24 older per unit. In determining whether housing is intended and operated
25 for occupancy by persons fifty-five years of age or older, Sec. 807 (b)
26 (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of
27 1988, as amended, shall apply.

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

35 (e) It shall be an unlawful discriminatory practice for the owner,
36 proprietor or managing agent of, or other person having the right to
37 provide care and services in, a private proprietary nursing home, convalescent home, or home for adults, or an intermediate care facility, as
38 defined in section two of the social services law, heretofore
39 constructed, or to be constructed, or any agent or employee thereof, to
40 refuse to provide services and care in such home or facility to any
41 individual or to discriminate against any individual in the terms,
42 conditions, and privileges of such services and care solely because such
43 individual is a blind person. For purposes of this paragraph, a "blind
44 person" shall mean a person who is registered as a blind person with the
45 commission for the visually handicapped and who meets the definition of
46 a "blind person" pursuant to section three of chapter four hundred
47 fifteen of the laws of nineteen hundred thirteen entitled "An act to
48 establish a state commission for improving the condition of the blind of
49 the state of New York, and making an appropriation therefor".

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

3 (g) It shall be an unlawful discriminatory practice for any person
4 offering or providing housing accommodations, land or commercial space
5 as described in paragraphs (a), (b), and (c) of this subdivision to make
6 or cause to be made any written or oral inquiry or record concerning
7 membership of any person in the state organized militia in relation to
8 the purchase, rental or lease of such housing accommodation, land, or
9 commercial space, provided, however, that nothing in this subdivision
10 shall prohibit a member of the state organized militia from voluntarily
11 disclosing such membership.

12 (H) THE PROVISIONS OF THIS SUBDIVISION PROHIBITING DISCRIMINATORY
13 PRACTICES BASED ON SOURCE OF INCOME SHALL NOT BE CONSTRUED TO PROHIBIT
14 THE REFUSAL OF A SALE, RENTAL OR LEASE OF COMMERCIAL SPACE BASED ON THE
15 TYPE OF COMMERCIAL ACTIVITY SUCH PURCHASER, RENTER OR LESSEE WILL USE
16 SUCH COMMERCIAL SPACE FOR.

17 S 4. Section 296 of the executive law is amended by adding a new
18 subdivision 22 to read as follows:

19 22. (A) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS TWO-A AND FIVE
20 OF THIS SECTION RELATING TO THE PROHIBITION OF UNLAWFUL DISCRIMINATORY
21 PRACTICES BASED ON SOURCE OF INCOME, SUCH PROVISIONS SHALL NOT APPLY TO
22 HOUSING ACCOMMODATIONS THAT: (1) CONTAIN FEWER THAN THREE HOUSING
23 UNITS; OR (2) CONTAIN A TOTAL OF FIVE OR FEWER HOUSING UNITS LOCATED
24 WITHIN A MUNICIPALITY THAT HAD A LOCAL LAW PERTAINING TO SUCH DISCRIMI-
25 NATORY PRACTICES, WHICH EXEMPTED HOUSING ACCOMMODATIONS THAT CONTAINED
26 FIVE OR FEWER HOUSING UNITS FROM SUCH PROHIBITION, IN EXISTENCE PRIOR TO
27 THE EFFECTIVE DATE OF THIS SUBDIVISION, PROVIDED, HOWEVER, THAT IF SUCH
28 LOCAL LAW IS REPEALED AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, THE
29 PROVISIONS OF THIS SECTION RELATING TO THE PROHIBITION OF UNLAWFUL
30 DISCRIMINATORY PRACTICES BASED ON SOURCE OF INCOME SHALL APPLY TO SUCH
31 HOUSING ACCOMMODATIONS.

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

43 S 5. This act shall take effect immediately.