

5876

2013-2014 Regular Sessions

I N S E N A T E

June 18, 2013

Introduced by Sens. ROBACH, GRISANTI, CARLUCCI -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the real property law and the real property actions and proceedings law, in relation to prohibiting discrimination in housing based upon domestic violence status and establishing a task force to study the impact of source of income on access to housing

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

1 Section 1. The real property law is amended by adding a new section  
2 227-d to read as follows:

3 S 227-D. DISCRIMINATION BASED ON DOMESTIC VIOLENCE STATUS; PROHIBITED.  
4 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, A PERSON IS A "DOMES-  
5 TIC VIOLENCE VICTIM" AND POSSESSES "DOMESTIC VIOLENCE VICTIM STATUS" IF  
6 SUCH PERSON IS OR HAS BEEN, OR IS A PARENT ACCOMPANIED BY A MINOR CHILD  
7 OR CHILDREN WHO IS OR HAS BEEN, IN A SITUATION IN WHICH SUCH PERSON OR  
8 CHILD IS A VICTIM OF AN ACT THAT WOULD CONSTITUTE A VIOLENT FELONY  
9 OFFENSE AS ENUMERATED IN SECTION 70.02 OF THE PENAL LAW, OR A FAMILY  
10 OFFENSE AS ENUMERATED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED TWELVE  
11 OF THE FAMILY COURT ACT, AND SUCH ACT IS ALLEGED TO HAVE BEEN COMMITTED  
12 BY A MEMBER OF THE SAME FAMILY OR HOUSEHOLD, AS DEFINED IN SUBDIVISION  
13 ONE OF SECTION EIGHT HUNDRED TWELVE OF THE FAMILY COURT ACT.

14 2. DISCRIMINATION BASED ON DOMESTIC VIOLENCE VICTIM STATUS PROHIBITED.  
15 (A) NO PERSON, FIRM OR CORPORATION OWNING OR MANAGING ANY BUILDING USED  
16 FOR DWELLING PURPOSES, OR THE AGENT OF SUCH PERSON, FIRM OR CORPORATION,  
17 SHALL, BECAUSE OF SUCH PERSON'S OR FAMILY MEMBER'S DOMESTIC VIOLENCE  
18 VICTIM STATUS, (1) REFUSE TO RENT A RESIDENTIAL UNIT TO ANY PERSON OR  
19 FAMILY, WHEN, BUT FOR SUCH STATUS, RENTAL WOULD NOT HAVE BEEN REFUSED,  
20 (2) DISCRIMINATE IN THE TERMS, CONDITIONS, OR PRIVILEGES OF ANY SUCH  
21 RENTAL, WHEN, BUT FOR SUCH STATUS, SUCH DISCRIMINATION WOULD NOT HAVE  
22 OCCURRED, OR (3) PRINT OR CIRCULATE, OR CAUSE TO BE PRINTED OR CIRCU-

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

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1 LATED, ANY STATEMENT, ADVERTISEMENT OR PUBLICATION WHICH EXPRESSES,  
2 DIRECTLY OR INDIRECTLY, ANY LIMITATION, SPECIFICATION, OR DISCRIMI-  
3 NATION. A VIOLATION OF THIS SUBDIVISION SHALL BE A MISDEMEANOR AND, ON  
4 CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN ONE  
5 THOUSAND DOLLARS AND NOT MORE THAN TWO THOUSAND DOLLARS FOR EACH  
6 OFFENSE; PROVIDED, HOWEVER, THAT IT SHALL BE A DEFENSE THAT SUCH PERSON,  
7 FIRM, CORPORATION OR AGENT REFUSED TO RENT A RESIDENTIAL UNIT ON ANY  
8 OTHER LAWFUL GROUND.

9 (B) CIVIL LIABILITY: (1) WHERE DISCRIMINATORY CONDUCT PROHIBITED BY  
10 THIS SUBDIVISION HAS OCCURRED, SUCH PERSON OR FAMILY SHALL HAVE A CAUSE  
11 OF ACTION IN ANY COURT OF APPROPRIATE JURISDICTION FOR COMPENSATORY AND  
12 PUNITIVE DAMAGES, WITH SUCH PUNITIVE DAMAGES NOT EXCEEDING TWO THOUSAND  
13 DOLLARS FOR EACH OFFENSE, AND DECLARATORY AND INJUNCTIVE RELIEF; AND (2)  
14 IN ALL ACTIONS BROUGHT UNDER THIS SECTION, REASONABLE ATTORNEYS' FEES AS  
15 DETERMINED BY THE COURT MAY BE AWARDED TO A PREVAILING PARTY, PROVIDED,  
16 HOWEVER, THAT A PREVAILING DEFENDANT IN ORDER TO RECOVER SUCH REASONABLE  
17 ATTORNEYS' FEES MUST MAKE A MOTION REQUESTING SUCH FEES AND SHOW THAT  
18 THE ACTION OR PROCEEDING BROUGHT WAS FRIVOLOUS. IN ORDER TO FIND THE  
19 ACTION OR PROCEEDING TO BE FRIVOLOUS, THE COURT MUST FIND ONE OR MORE OF  
20 THE FOLLOWING: (I) THE ACTION WAS COMMENCED, USED OR CONTINUED IN BAD  
21 FAITH, SOLELY TO DELAY OR PROLONG THE RESOLUTION OF THE LITIGATION OR TO  
22 HARASS OR MALICIOUSLY INJURE ANOTHER; OR (II) THE ACTION WAS COMMENCED  
23 OR CONTINUED IN BAD FAITH WITHOUT ANY REASONABLE BASIS AND COULD NOT BE  
24 SUPPORTED BY A GOOD FAITH ARGUMENT FOR AN EXTENSION, MODIFICATION OR  
25 REVERSAL OF EXISTING LAW. IF THE ACTION OR PROCEEDING WAS PROMPTLY  
26 DISCONTINUED WHEN THE PARTY OR ATTORNEY LEARNED OR SHOULD HAVE LEARNED  
27 THAT THE ACTION OR PROCEEDING LACKED SUCH A REASONABLE BASIS, THE COURT  
28 MAY FIND THAT THE PARTY OR THE ATTORNEY DID NOT ACT IN BAD FAITH.

29 (C) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS LIMITING THE ABILITY  
30 OF A PERSON, FIRM OR CORPORATION OWNING OR MANAGING A BUILDING USED FOR  
31 DWELLING PURPOSES, OR THE AGENT OF SUCH PERSON, FIRM OR CORPORATION,  
32 FROM APPLYING REASONABLE STANDARDS NOT BASED ON OR DERIVED FROM DOMESTIC  
33 VIOLENCE VICTIM STATUS IN DETERMINING THE ELIGIBILITY OF A PERSON OR  
34 FAMILY SEEKING TO RENT A RESIDENTIAL UNIT.

35 (D) THIS SECTION SHALL NOT APPLY TO BUILDINGS USED FOR DWELLING  
36 PURPOSES THAT ARE OWNER OCCUPIED AND HAVE TWO OR FEWER RESIDENTIAL  
37 UNITS.

38 3. A PERSON, FIRM, OR CORPORATION OWNING OR MANAGING A BUILDING USED  
39 FOR DWELLING PURPOSES OR AGENT OF SUCH PERSON, FIRM OR CORPORATION SHALL  
40 NOT BE CIVILLY LIABLE TO OTHER TENANTS, GUESTS, INVITEES, OR LICENSEES  
41 ARISING FROM REASONABLE AND GOOD FAITH EFFORTS TO COMPLY WITH THIS  
42 SECTION.

43 4. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PROHIBITING A PERSON,  
44 FIRM OR CORPORATION OWNING OR MANAGING A BUILDING USED FOR DWELLING  
45 PURPOSES, OR THE AGENT OF SUCH PERSON, FIRM OR CORPORATION, FROM:

46 (A) PROVIDING OR PRESERVING A RENTAL PREFERENCE IN ANY PUBLIC OR  
47 PRIVATE HOUSING FOR VICTIMS OF DOMESTIC VIOLENCE;

48 (B) PROVIDING ANY OTHER ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE IN  
49 OBTAINING OR RETAINING ANY PUBLIC OR PRIVATE HOUSING; OR

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

52 5. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PROHIBITING A MUNICI-  
53 PALITY FROM RETAINING OR PROMULGATING LOCAL LAWS OR ORDINANCES IMPOSING  
54 ADDITIONAL OR ENHANCED PROTECTIONS PROHIBITING DISCRIMINATION AGAINST  
55 VICTIMS OF DOMESTIC VIOLENCE.

1 6. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS LIMITING, DIMINISH-  
2 ING, OR OTHERWISE AFFECTING ANY RIGHTS UNDER EXISTING LAW.

3 S 2. The real property actions and proceedings law is amended by  
4 adding a new section 744 to read as follows:

5 S 744. EVICTION BASED ON DOMESTIC VIOLENCE VICTIM STATUS PROHIBITED.

6 1. A TENANT SHALL NOT BE REMOVED FROM POSSESSION OF A RESIDENTIAL UNIT  
7 PURSUANT TO THIS ARTICLE BECAUSE OF SUCH PERSON'S DOMESTIC VIOLENCE  
8 VICTIM STATUS, AS DEFINED IN SECTION TWO HUNDRED TWENTY-SEVEN-D OF THE  
9 REAL PROPERTY LAW. IT SHALL BE A DEFENSE TO A PROCEEDING TO RECOVER  
10 POSSESSION OF A RESIDENTIAL UNIT THAT A LANDLORD SEEKS SUCH RECOVERY  
11 BECAUSE OF A PERSON'S DOMESTIC VIOLENCE VICTIM STATUS, AND THAT, BUT FOR  
12 SUCH STATUS, THE LANDLORD WOULD NOT SEEK TO RECOVER POSSESSION. A LAND-  
13 LORD MAY REBUT SUCH DEFENSE BY SHOWING THAT HE OR SHE SEEKS TO RECOVER  
14 POSSESSION OF A RESIDENTIAL UNIT BECAUSE OF ANY OTHER LAWFUL GROUND.

15 2. NOTHING IN THIS SECTION SHALL RESTRICT A LANDLORD'S LEGAL RIGHTS TO  
16 RECOVER POSSESSION OF A RESIDENTIAL UNIT ON GROUNDS NOT BASED ON OR  
17 DERIVED FROM DOMESTIC VIOLENCE VICTIM STATUS.

18 3. A LANDLORD SHALL NOT BE CIVILLY LIABLE TO OTHER TENANTS, GUESTS,  
19 INVITEES, OR LICENSEES ARISING FROM REASONABLE AND GOOD FAITH EFFORTS TO  
20 COMPLY WITH THIS SECTION.

21 4. THIS SECTION SHALL NOT APPLY TO BUILDINGS USED FOR DWELLING  
22 PURPOSES THAT ARE OWNER OCCUPIED AND HAVE TWO OR FEWER RESIDENTIAL  
23 UNITS.

24 S 3. There is hereby established a task force to study the impact of  
25 source of income on access to housing including, but not limited to, any  
26 sex-based impact. The task force shall consist of the following members  
27 as appointed by the governor: (1) two members of the governor's cabinet;  
28 (2) two experts on housing policy representing the needs of both land-  
29 lords and tenants; (3) two members who are local government officials,  
30 who shall each represent different geographical regions within the  
31 state; (4) two members on the recommendation of the temporary president  
32 of the senate; and (5) two members on the recommendation of the speaker  
33 of the assembly. The governor shall designate a chair of the task force  
34 from amongst such appointees. The task force shall meet as often as is  
35 appropriate under circumstances necessary to fulfill its duties under  
36 this section. The task force shall (a) review the Section 8 Housing  
37 Choice Voucher Administrative Plan and, if necessary, recommend modifi-  
38 cations to increase the participation of landlords and property owners,  
39 which may include, but shall not be limited to: expanding the portabil-  
40 ity of Section 8 vouchers, including as may be appropriate for domestic  
41 violence victims; creating a state-sponsored special-purpose mobility  
42 counseling program; enhancing means of connecting voucher holders to  
43 approved landlords; and eliminating delays in housing quality standard  
44 inspections; and (b) review other current policies and laws and, if  
45 necessary, recommend modifications to improve access to quality and  
46 affordable housing. The task force shall submit its report and recommen-  
47 dations to the governor, the temporary president of the senate, and the  
48 speaker of the assembly on January 15, 2015.

49 S 4. Severability clause. If any clause, sentence, paragraph, subdivi-  
50 sion, section or part of this act shall be adjudged by a court of compe-  
51 tent jurisdiction to be invalid, such judgment shall not affect, impair  
52 or invalidate the remainder thereof, but shall be confined in its opera-  
53 tion to the clause, sentence, paragraph, subdivision, section or part  
54 thereof directly involved in the controversy in which such judgment  
55 shall have been rendered. It is hereby declared to be the intent of the

1 legislature that this act would have been enacted even if such invalid  
2 provisions had not been included herein.  
3 S 5. This act shall take effect on the ninetieth day after it shall  
4 have become a law.