S T A T E O F N E W Y O R K

5053

2015-2016 Regular Sessions

I N S E N A T E

April 29, 2015

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the executive law and to amend the real property actions and proceedings 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:

Section 1. Subdivision 34 of section 292 of the executive law is REPEALED and a new subdivision 34 is added to read as follows:

34. THE TERM "VICTIM OF DOMESTIC VIOLENCE" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM BY SECTION FOUR HUNDRED FIFTY-NINE-A OF THE SOCIAL SERVICES LAW.

S 2. Paragraph (a) of subdivision 2 of section 296 of the executive law, as amended by chapter 106 of the laws of 2003, is amended to read as follows:

(a) It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the race, creed, color, national origin, sexual orientation, military status, sex, [or] disability [or], marital status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, including the extension of credit, or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, creed, color, national origin, sexual orientation, military status, sex, [or] disability [or],

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

LBD09563-03-5

marital status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or that the patronage or custom thereat of any person of or purporting to be of any particular race, creed, color, national origin, sexual orientation, military status, sex [or], marital status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or having a disability is unwelcome, objectionable or not acceptable, desired or solicited.

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

(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 because of the race, creed, color, disability, national origin, sexual orientation, military status, age, sex, marital status, [or] familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE 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.

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

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

(c-1) 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 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or any intent to make any such limitation, specification or discrimination.

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

3-b. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership or organization for the purpose of inducing a real estate transaction from which any such person or any of its stockholders or members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, [or] familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of the owners or occupants in the block, neighborhood or area in which the real property is located,

and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

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

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

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

(1) To refuse to sell, rent, lease or otherwise to deny to or withhold from any person or group of persons such a housing accommodation because of the race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, [or] familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation 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 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE, 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE; 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 restriction of the sale, rental or lease of land to be used for the construction, or location of housing accommodations exclusively for persons sixty-two years of age or older, or 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.

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

(1) To refuse to sell, rent or lease any housing accommodation, land or commercial space to any person or group of persons or to refuse to negotiate for the sale, rental or lease, of any housing accommodation, land or commercial space to any person or group of persons because of the race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, [or] familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to represent that any housing accommodation, land or commercial space is

not available for inspection, sale, rental or lease when in fact it is so available, or otherwise to deny or withhold any housing accommodation, land or commercial space or any facilities of any housing accommodation, land or commercial space from any person or group of persons because of the race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, [or] familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons.

(2) 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 any housing accommodation, land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of any housing accommodation, 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE; or any intent to make any such limitation, specification or discrimination.

(3) 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 any land or commercial space exclusively to persons fifty-five years of age or older and the spouse of any such person, or to the restriction of the sale, rental or lease of any housing accommodation or land to be used for the construction or location of housing accommodations for persons sixty-two years of age or older, or 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.

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

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

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

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

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

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

S 7. The real property actions and proceedings law is amended by adding a new section 744 to read as follows:

S 744. EVICTION BASED ON DOMESTIC VIOLENCE VICTIM STATUS PROHIBITED. 1. THE TERM "VICTIM OF DOMESTIC VIOLENCE" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM BY SECTION FOUR HUNDRED FIFTY-NINE-A OF THE SOCIAL SERVICES LAW.

2. PURSUANT TO THIS ARTICLE, IT SHALL BE UNLAWFUL TO RECOVER POSSESSION, OR ATTEMPT TO RECOVER POSSESSION, OF A DWELLING FROM A TENANT BECAUSE OF SUCH TENANT'S OR LEGAL OCCUPANT'S STATUS AS A VICTIM OF DOMESTIC VIOLENCE. IT SHALL BE A DEFENSE TO A PROCEEDING TO RECOVER POSSESSION OF A DWELLING THAT A LANDLORD SEEKS SUCH RECOVERY BECAUSE OF A TENANT'S OR LEGAL OCCUPANT'S STATUS AS A VICTIM OF DOMESTIC VIOLENCE, AND THAT, BUT FOR SUCH STATUS, THE LANDLORD WOULD NOT SEEK TO RECOVER POSSESSION.

3. NOTHING IN THIS SECTION SHALL RESTRICT A LANDLORD'S LEGAL RIGHT TO RECOVER POSSESSION OF A DWELLING ON A GROUND OTHER THAN BASED ON OR DERIVED FROM A TENANT'S STATUS AS A VICTIM OF DOMESTIC VIOLENCE.

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

S 8. This act shall take effect on the ninetieth day after it shall have become a law.