

6354--B

Cal. No. 212

2015-2016 Regular Sessions

I N A S S E M B L Y

March 20, 2015

Introduced by M. of A. PEOPLES-STOKES, WEINSTEIN, PAULIN, BICHOTTE, WEPRIN, OTIS, BRONSON, WALKER, FAHY, GALEF, ZEBROWSKI -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- advanced to a third reading, passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

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 "DOMESTIC
5 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

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

LBD09563-04-5

1 VICTIM STATUS, (1) REFUSE TO RENT A RESIDENTIAL UNIT TO ANY PERSON OR
2 FAMILY, WHEN, BUT FOR SUCH STATUS, RENTAL WOULD NOT HAVE BEEN REFUSED,
3 (2) DISCRIMINATE IN THE TERMS, CONDITIONS, OR PRIVILEGES OF ANY SUCH
4 RENTAL, WHEN, BUT FOR SUCH STATUS, SUCH DISCRIMINATION WOULD NOT HAVE
5 OCCURRED, OR (3) PRINT OR CIRCULATE, OR CAUSE TO BE PRINTED OR CIRCULATED,
6 ANY STATEMENT, ADVERTISEMENT OR PUBLICATION WHICH EXPRESSES,
7 DIRECTLY OR INDIRECTLY, ANY LIMITATION, SPECIFICATION, OR DISCRIMINATION.
8 A VIOLATION OF THIS SUBDIVISION SHALL BE A MISDEMEANOR AND, ON
9 CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN ONE
10 THOUSAND DOLLARS AND NOT MORE THAN TWO THOUSAND DOLLARS FOR EACH
11 OFFENSE; PROVIDED, HOWEVER, THAT IT SHALL BE A DEFENSE THAT SUCH PERSON,
12 FIRM, CORPORATION OR AGENT REFUSED TO RENT A RESIDENTIAL UNIT ON ANY
13 OTHER LAWFUL GROUND.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 S 3. There is hereby established a task force to study the impact of
29 source of income on access to housing including, but not limited to, any
30 sex-based impact. The task force shall consist of the following members
31 as appointed by the governor: (1) two members of the governor's cabinet;
32 (2) two experts on housing policy representing the needs of both land-
33 lords and tenants; (3) two members who are local government officials,
34 who shall each represent different geographical regions within the
35 state; (4) two members on the recommendation of the temporary president
36 of the senate; and (5) two members on the recommendation of the speaker
37 of the assembly. The governor shall designate a chair of the task force
38 from amongst such appointees. The task force shall meet as often as is
39 appropriate under circumstances necessary to fulfill its duties under
40 this section. The task force shall (a) review the Section 8 Housing
41 Choice Voucher Administrative Plan and, if necessary, recommend modifi-
42 cations to increase the participation of landlords and property owners,
43 which may include, but shall not be limited to: expanding the portabil-
44 ity of Section 8 vouchers, including as may be appropriate for domestic
45 violence victims; creating a state-sponsored special-purpose mobility
46 counseling program; enhancing means of connecting voucher holders to
47 approved landlords; and eliminating delays in housing quality standard
48 inspections; and (b) review other current policies and laws and, if
49 necessary, recommend modifications to improve access to quality and
50 affordable housing. The task force shall submit its report and recommen-
51 dations to the governor, the temporary president of the senate, and the
52 speaker of the assembly on January 15, 2016.

53 S 4. Severability clause. If any clause, sentence, paragraph, subdivi-
54 sion, section or part of this act shall be adjudged by a court of compe-
55 tent jurisdiction to be invalid, such judgment shall not affect, impair
56 or invalidate the remainder thereof, but shall be confined in its opera-

1 tion to the clause, sentence, paragraph, subdivision, section or part
2 thereof directly involved in the controversy in which such judgment
3 shall have been rendered. It is hereby declared to be the intent of the
4 legislature that this act would have been enacted even if such invalid
5 provisions had not been included herein.

6 S 5. This act shall take effect on the ninetieth day after it shall
7 have become a law.