

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:

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2 REPEALED and a new subdivision 34 is added to read as follows: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" SHALL HAVE THE SAME MEANING
4 AS IS ASCRIBED TO SUCH TERM BY SECTION FOUR HUNDRED FIFTY-NINE-A OF THE
5 SOCIAL SERVICES LAW.
6 S 2. Paragraph (a) of subdivision 2 of section 296 of the executive
7 law, as amended by chapter 106 of the laws of 2003, is amended to read
8 as follows:
9 (a) It shall be an unlawful discriminatory practice for any person,
10 being the owner, lessee, proprietor, manager, superintendent, agent or
11 employee of any place of public accommodation, resort or amusement,
12 because of the race, creed, color, national origin, sexual orientation,
13 military status, sex, [or] disability [or], marital status, OR STATUS AS
14 A VICTIM OF DOMESTIC VIOLENCE of any person, directly or indirectly, to
15 refuse, withhold from or deny to such person any of the accommodations,
16 advantages, facilities or privileges thereof, including the extension of
17 credit, or, directly or indirectly, to publish, circulate, issue,
18 display, post or mail any written or printed communication, notice or
19 advertisement, to the effect that any of the accommodations, advantages,
20 facilities and privileges of any such place shall be refused, withheld
21 from or denied to any person on account of race, creed, color, national
22 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.

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

7 S 3. Paragraphs (a), (b), (c) and (c-1) of subdivision 2-a of section
8 296 of the executive law, paragraphs (a), (b) and (c) as amended and
9 paragraph (c-1) as added by chapter 106 of the laws of 2003, are amended
10 to read as follows:

11 (a) To refuse to sell, rent or lease or otherwise to deny to or with-
12 hold 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 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or
16 persons, or to represent that any housing accommodation or land is not
17 available for inspection, sale, rental or lease when in fact it is so
18 available.

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

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

34 (c-1) To print or circulate or cause to be printed or circulated any
35 statement, advertisement or publication, or to use any form of applica-
36 tion for the purchase, rental or lease of such housing accommodation or
37 to make any record or inquiry in connection with the prospective
38 purchase, rental or lease of such a housing accommodation which
39 expresses, directly or indirectly, any limitation, specification or
40 discrimination as to race, creed, color, national origin, sexual orien-
41 tation, military status, sex, age, disability, marital status, [or]
42 familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or any
43 intent to make any such limitation, specification or discrimination.

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

47 3-b. It shall be an unlawful discriminatory practice for any real
48 estate broker, real estate salesperson or employee or agent thereof or
49 any other individual, corporation, partnership or organization for the
50 purpose of inducing a real estate transaction from which any such person
51 or any of its stockholders or members may benefit financially, to repre-
52 sent that a change has occurred or will or may occur in the composition
53 with respect to race, creed, color, national origin, sexual orientation,
54 military status, sex, disability, marital status, [or] familial status,
55 OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of the owners or occupants in
56 the block, neighborhood or area in which the real property is located,

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

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

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

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

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

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

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

47 The provisions of this paragraph [(a)] shall not apply (1) to the
48 rental of a housing accommodation in a building which contains housing
49 accommodations for not more than two families living independently of
50 each other, if the owner resides in one of such housing accommodations,

51 (2) to the restriction of the rental of all rooms in a housing accommo-
52 dation to individuals of the same sex or (3) to the rental of a room or
53 rooms in a housing accommodation, if such rental is by the occupant of
54 the housing accommodation or by the owner of the housing accommodation
55 and the owner resides in such housing accommodation or (4) solely with
56 respect to age and familial status to the restriction of the sale,

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

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

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

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

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

35 (4) With respect to age and familial status, the provisions of this
36 paragraph shall not apply to the restriction of the sale, rental or
37 lease of land or commercial space exclusively to persons fifty-five
38 years of age or older and the spouse of any such person, or to the
39 restriction of the sale, rental or lease of land to be used for the
40 construction, or location of housing accommodations exclusively for
41 persons sixty-two years of age or older, or intended and operated for
42 occupancy by at least one person fifty-five years of age or older per
43 unit. In determining whether housing is intended and operated for occu-
44 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)
45 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as
46 amended, shall apply.

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

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

1 not available for inspection, sale, rental or lease when in fact it is
2 so available, or otherwise to deny or withhold any housing accommo-
3 dation, land or commercial space or any facilities of any housing accom-
4 modation, land or commercial space from any person or group of persons
5 because of the race, creed, color, national origin, sexual orientation,
6 military status, sex, age, disability, marital status, [or] familial
7 status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or
8 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 applica-
11 tion for the purchase, rental or lease of any housing accommodation,
12 land or commercial space or to make any record or inquiry in connection
13 with the prospective purchase, rental or lease of any housing accommo-
14 dation, land or commercial space which expresses, directly or indirect-
15 ly, any limitation, specification, or discrimination as to race, creed,
16 color, national origin, sexual orientation, military status, sex, age,
17 disability, marital status, [or] familial status, OR STATUS AS A VICTIM
18 OF DOMESTIC VIOLENCE; or any intent to make any such limitation, spec-
19 ification or discrimination.

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

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

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

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

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

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

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

1 S 7. The real property actions and proceedings law is amended by
2 adding a new section 744 to read as follows:
3 S 744. EVICTION BASED ON DOMESTIC VIOLENCE VICTIM STATUS PROHIBITED.
4 1. THE TERM "VICTIM OF DOMESTIC VIOLENCE" SHALL HAVE THE SAME MEANING AS
5 IS ASCRIBED TO SUCH TERM BY SECTION FOUR HUNDRED FIFTY-NINE-A OF THE
6 SOCIAL SERVICES LAW.
7 2. PURSUANT TO THIS ARTICLE, IT SHALL BE UNLAWFUL TO RECOVER
8 POSSESSION, OR ATTEMPT TO RECOVER POSSESSION, OF A DWELLING FROM A
9 TENANT BECAUSE OF SUCH TENANT'S OR LEGAL OCCUPANT'S STATUS AS A VICTIM
10 OF DOMESTIC VIOLENCE. IT SHALL BE A DEFENSE TO A PROCEEDING TO RECOVER
11 POSSESSION OF A DWELLING THAT A LANDLORD SEEKS SUCH RECOVERY BECAUSE OF
12 A TENANT'S OR LEGAL OCCUPANT'S STATUS AS A VICTIM OF DOMESTIC VIOLENCE,
13 AND THAT, BUT FOR SUCH STATUS, THE LANDLORD WOULD NOT SEEK TO RECOVER
14 POSSESSION.
15 3. NOTHING IN THIS SECTION SHALL RESTRICT A LANDLORD'S LEGAL RIGHT TO
16 RECOVER POSSESSION OF A DWELLING ON A GROUND OTHER THAN BASED ON OR
17 DERIVED FROM A TENANT'S STATUS AS A VICTIM OF DOMESTIC VIOLENCE.
18 4. THIS SECTION SHALL NOT APPLY TO BUILDINGS USED FOR DWELLING
19 PURPOSES THAT ARE OWNER OCCUPIED AND HAVE TWO OR FEWER RESIDENTIAL
20 UNITS.
21 S 8. This act shall take effect on the ninetieth day after it shall
22 have become a law.