

STATE OF NEW YORK

5431

2017-2018 Regular Sessions

IN ASSEMBLY

February 9, 2017

Introduced by M. of A. WEPRIN, STIRPE, BICHOTTE, JOYNER, WALKER --
Multi-Sponsored by -- M. of A. BRONSON, GALEF, GOTTFRIED, LAVINE,
LIFTON, McDONALD, McDONOUGH, MOSLEY, PERRY, RIVERA, ROSENTHAL,
SEPULVEDA, SKARTADOS -- 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 Assem-
bly, do enact as follows:

Section 1. Section 292 of the executive law is amended by adding a new
subdivision 35 to read as follows:

35. The term "source of income" shall include: wages from lawful
employment; child support; alimony; foster care subsidies; income
derived from social security, or any form of federal, state or local
public assistance; housing and rental subsidies and assistance, includ-
ing section 8 vouchers; savings, investment and trust accounts; and any
other forms of lawful income.

§ 2. Paragraphs (a), (b) and (c) of subdivision 2-a of section 296 of
the executive law, as amended 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 with-
hold 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 source of income 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 source of
income in the terms, conditions or privileges of any publicly-assisted

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

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1 housing accommodations or in the furnishing of facilities or services in
2 connection therewith.

3 (c) To cause to be made any written or oral inquiry or record concern-
4 ing the race, creed, color, disability, national origin, sexual orien-
5 tation, membership in the reserve armed forces of the United States or
6 in the organized militia of the state, age, sex, marital status, [✗]
7 familial status, or source of income of a person seeking to rent or
8 lease any publicly-assisted housing accommodation; provided, however,
9 that nothing in this subdivision shall prohibit a member of the reserve
10 armed forces of the United States or in the organized militia of the
11 state from voluntarily disclosing such membership, and provided further,
12 however, that the provisions of this paragraph shall not be construed to
13 prevent an owner, lessee, sub-lessee, assignee or managing agent from
14 obtaining a credit report detailing such person's credit worthiness.

15 § 3. Subdivision 5 of section 296 of the executive law, as amended by
16 chapter 106 of the laws of 2003, is amended to read as follows:

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

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

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

34 (3) 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, [✗]
42 familial status, or source of income, or any intent to make any such
43 limitation, specification or discrimination, provided, however, that the
44 provisions of this subparagraph shall not be construed to prevent an
45 owner, lessee, sub-lessee, assignee, or managing agent of, or other
46 person having the right to sell, rent or lease a housing accommodation,
47 constructed or to be constructed, or any agent or employee thereof from
48 obtaining a credit report detailing the credit worthiness of any
49 prospective individuals seeking to purchase, rent or lease a housing
50 accommodation.

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

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

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

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

23 (2) To discriminate against any person because of race, creed, color,
24 national origin, sexual orientation, military status, sex, age, disabili-
25 ty, marital status, ~~[or]~~ or source of income in the
26 terms, conditions or privileges of the sale, rental or lease of any such
27 land or commercial space; or in the furnishing of facilities or services
28 in connection therewith;

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

39 (4) With respect to age and familial status, the provisions of this
40 paragraph shall not apply to the restriction of the sale, rental or
41 lease of land or commercial space exclusively to persons fifty-five
42 years of age or older and the spouse of any such person, or to the
43 restriction of the sale, rental or lease of land to be used for the
44 construction, or location of housing accommodations exclusively for
45 persons sixty-two years of age or older, or intended and operated for
46 occupancy by at least one person fifty-five years of age or older per
47 unit. In determining whether housing is intended and operated for occu-
48 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)
49 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as
50 amended, shall apply.

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

53 (1) To refuse to sell, rent or lease any housing accommodation, land
54 or commercial space to any person or group of persons or to refuse to
55 negotiate for the sale, rental or lease, of any housing accommodation,
56 land or commercial space to any person or group of persons because of

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

12 (2) To print or circulate or cause to be printed or circulated any
13 statement, advertisement or publication, or to use any form of applica-
14 tion for the purchase, rental or lease of any housing accommodation,
15 land or commercial space or to make any record or inquiry in connection
16 with the prospective purchase, rental or lease of any housing accommo-
17 dation, land or commercial space which expresses, directly or indirect-
18 ly, any limitation, specification, or discrimination as to race, creed,
19 color, national origin, sexual orientation, military status, sex, age,
20 disability, marital status, [~~or~~] familial status, or source of income;
21 or any intent to make any such limitation, specification or discrimi-
22 nation.

23 (3) With respect to age and familial status, the provisions of this
24 paragraph shall not apply to the restriction of the sale, rental or
25 lease of any land or commercial space exclusively to persons fifty-five
26 years of age or older and the spouse of any such person, or to the
27 restriction of the sale, rental or lease of any housing accommodation or
28 land to be used for the construction or location of housing accommo-
29 dations for persons sixty-two years of age or older, or intended and
30 operated for occupancy by at least one person fifty-five years of age or
31 older per unit. In determining whether housing is intended and operated
32 for occupancy by persons fifty-five years of age or older, Sec. 807 (b)
33 (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of
34 1988, as amended, shall apply.

35 (d) It shall be an unlawful discriminatory practice for any real
36 estate board, because of the race, creed, color, national origin, sexual
37 orientation, military status, age, sex, disability, marital status, [~~or~~]
38 familial status, or source of income of any individual who is otherwise
39 qualified for membership, to exclude or expel such individual from
40 membership, or to discriminate against such individual in the terms,
41 conditions and privileges of membership in such board.

42 (e) It shall be an unlawful discriminatory practice for the owner,
43 proprietor or managing agent of, or other person having the right to
44 provide care and services in, a private proprietary nursing home, conva-
45 lescent home, or home for adults, or an intermediate care facility, as
46 defined in section two of the social services law, heretofore
47 constructed, or to be constructed, or any agent or employee thereof, to
48 refuse to provide services and care in such home or facility to any
49 individual or to discriminate against any individual in the terms,
50 conditions, and privileges of such services and care solely because such
51 individual is a blind person. For purposes of this paragraph, a "blind
52 person" shall mean a person who is registered as a blind person with the
53 commission for the visually handicapped and who meets the definition of
54 a "blind person" pursuant to section three of chapter four hundred
55 fifteen of the laws of nineteen hundred thirteen entitled "An act to

1 establish a state commission for improving the condition of the blind of
2 the state of New York, and making an appropriation therefor".

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

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

14 (h) The provisions of this subdivision prohibiting discriminatory
15 practices based on source of income shall not be construed to prohibit
16 the refusal of a sale, rental or lease of commercial space based on the
17 type of commercial activity such purchaser, renter or lessee will use
18 such commercial space for.

19 § 4. Section 296 of the executive law is amended by adding a new
20 subdivision 22 to read as follows:

21 22. (a) Notwithstanding the provisions of subdivisions two-a and five
22 of this section relating to the prohibition of unlawful discriminatory
23 practices based on source of income, such provisions shall not apply to
24 housing accommodations that: (i) contain fewer than three housing
25 units; or (ii) contain a total of five or fewer housing units located
26 within a municipality that had a local law pertaining to such discrimi-
27 natory practices, which exempted housing accommodations that contained
28 five or fewer housing units from such prohibition, in existence prior to
29 the effective date of this subdivision, provided, however, that if such
30 local law is repealed after the effective date of this subdivision, the
31 provisions of this section relating to the prohibition of unlawful
32 discriminatory practices based on source of income shall apply to such
33 housing accommodations.

34 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
35 sion, the provisions of subdivisions two-a and five of this section
36 relating to the prohibition of unlawful discriminatory practices based
37 on source of income shall apply (i) to tenants subject to rent control
38 laws who reside in housing accommodations that contain a total of five
39 or fewer units as of the effective date of this subdivision; and (ii) to
40 all housing accommodations, regardless of the number of units contained
41 in each, of any owner or any agent thereof who has the right to sell,
42 rent or lease or approve the sale, rental or lease of at least one hous-
43 ing accommodation within the state of New York that contains six or more
44 housing units, constructed or to be constructed, or an interest therein.

45 § 5. This act shall take effect immediately.