

# STATE OF NEW YORK

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149

2017-2018 Regular Sessions

## IN SENATE

(Prefiled)

January 4, 2017

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Introduced by Sens. SQUADRON, ADDABBO, DILAN, HAMILTON, HOYLMAN, KENNEDY, PARKER -- 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, in relation to discrimination based upon the income of persons

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

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

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

12 (a) It shall be an unlawful discriminatory practice for any person,  
13 being the owner, lessee, proprietor, manager, superintendent, agent or  
14 employee of any place of public accommodation, resort or amusement,  
15 because of the race, creed, color, national origin, sexual orientation,  
16 military status, sex, source of income, or disability or marital status  
17 of any person, directly or indirectly, to refuse, withhold from or deny  
18 to such person any of the accommodations, advantages, facilities or  
19 privileges thereof, including the extension of credit, or, directly or  
20 indirectly, to publish, circulate, issue, display, post or mail any  
21 written or printed communication, notice or advertisement, to the effect  
22 that any of the accommodations, advantages, facilities and privileges of  
23 any such place shall be refused, withheld from or denied to any person

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

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1 on account of race, creed, color, national origin, sexual orientation,  
2 military status, sex, source of income, or disability or marital status,  
3 or that the patronage or custom thereof of any person of or purporting  
4 to be of any particular race, creed, color, national origin, sexual  
5 orientation, military status, source of income, sex or marital status,  
6 or having a disability is unwelcome, objectionable or not acceptable,  
7 desired or solicited.

8 § 3. Paragraphs (a), (b) and (c) of subdivision 2-a of section 296 of  
9 the executive law, as amended by chapter 106 of the laws of 2003, are  
10 amended 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, [~~ex~~] familial  
15 status, or source of income of such person or persons, or to represent  
16 that any housing accommodation or land is not available for inspection,  
17 sale, rental or lease when in fact it is so available.

18 (b) To discriminate against any person because of his or her race,  
19 creed, color, disability, national origin, sexual orientation, military  
20 status, age, sex, marital status, [~~ex~~] familial status, or source of  
21 income in the terms, conditions or privileges of any publicly-assisted  
22 housing accommodations or in the furnishing of facilities or services in  
23 connection therewith.

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

33 § 4. Subdivision 5 of section 296 of the executive law, as amended by  
34 chapter 106 of the laws of 2003, is amended to read as follows:

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

39 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold  
40 from any person or group of persons such a housing accommodation because  
41 of the race, creed, color, national origin, sexual orientation, military  
42 status, sex, age, disability, marital status, [~~ex~~] familial status, or  
43 source of income of such person or persons, or to represent that any  
44 housing accommodation or land is not available for inspection, sale,  
45 rental or lease when in fact it is so available.

46 (2) To discriminate against any person because of race, creed, color,  
47 national origin, sexual orientation, military status, sex, age, disabili-  
48 ty, marital status, [~~ex~~] familial status, or source of income in the  
49 terms, conditions or privileges of the sale, rental or lease of any such  
50 housing accommodation or in the furnishing of facilities or services in  
51 connection therewith.

52 (3) To print or circulate or cause to be printed or circulated any  
53 statement, advertisement or publication, or to use any form of applica-  
54 tion for the purchase, rental or lease of such housing accommodation or  
55 to make any record or inquiry in connection with the prospective  
56 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 source of income, or any intent to make any such limitation, specification or discrimination.

The provisions of this paragraph ~~[(a)]~~ shall not apply~~[(1)]~~ : (i) 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)]~~ (ii) to the restriction of the rental of all rooms in a housing accommodation to individuals of the same sex or ~~[(3)]~~ (iii) 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)]~~ (iv) 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 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;

(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 source of income 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 source of income; 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 source of income 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 source of income 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 source of income; 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 source of income 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.

(e) It shall be an unlawful discriminatory practice for the owner, proprietor or managing agent of, or other person having the right to provide care and services in, a private proprietary nursing home, conva-

1 lescent home, or home for adults, or an intermediate care facility, as  
2 defined in section two of the social services law, heretofore  
3 constructed, or to be constructed, or any agent or employee thereof, to  
4 refuse to provide services and care in such home or facility to any  
5 individual or to discriminate against any individual in the terms,  
6 conditions, and privileges of such services and care solely because such  
7 individual is a blind person. For purposes of this paragraph, a "blind  
8 person" shall mean a person who is registered as a blind person with the  
9 commission for the visually handicapped and who meets the definition of  
10 a "blind person" pursuant to section three of chapter four hundred  
11 fifteen of the laws of nineteen hundred thirteen entitled "An act to  
12 establish a state commission for improving the condition of the blind of  
13 the state of New York, and making an appropriation therefor".

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

16 (g) It shall be an unlawful discriminatory practice for any person  
17 offering or providing housing accommodations, land or commercial space  
18 as described in paragraphs (a), (b), and (c) of this subdivision to make  
19 or cause to be made any written or oral inquiry or record concerning  
20 membership of any person in the state organized militia in relation to  
21 the purchase, rental or lease of such housing accommodation, land, or  
22 commercial space, provided, however, that nothing in this subdivision  
23 shall prohibit a member of the state organized militia from voluntarily  
24 disclosing such membership.

25 § 5. Section 296 of the executive law is amended by adding a new  
26 subdivision 22 to read as follows:

27 22. (a) Notwithstanding the provisions of subdivisions two, two-a, and  
28 five of this section relating to the prohibition of unlawful discrimina-  
29 tory practices based on source of income, such provisions shall not  
30 apply to housing accommodations that contain a total of five or fewer  
31 housing units located within a municipality that had a local law  
32 pertaining to such discriminatory practices, which exempted housing  
33 accommodations that contained five or fewer housing units from such  
34 prohibition, in existence prior to the effective date of this subdivi-  
35 sion, provided, however, that if such local law is repealed after the  
36 effective date of this subdivision, the provisions of this section  
37 relating to the prohibition of unlawful discriminatory practices based  
38 on source of income shall apply to such housing accommodations.

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

51 § 6. This act shall take effect immediately.