

STATE OF NEW YORK

7003

IN SENATE

(Prefiled)

January 3, 2018

Introduced by Sen. KRUEGER -- 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:

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, including section 8 vouchers; savings, investment and trust accounts; and any other forms of lawful income.

§ 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, source of income, or disability or marital status 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, source of income, or disability or marital status, or that the patronage or custom thereat of any person of or purporting

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

LBD02373-01-7

1 to be of any particular race, creed, color, national origin, sexual
2 orientation, military status, source of income, sex or marital status,
3 or having a disability is unwelcome, objectionable or not acceptable,
4 desired or solicited.

5 § 3. Paragraphs (a), (b) and (c) of subdivision 2-a of section 296 of
6 the executive law, as amended by chapter 106 of the laws of 2003, are
7 amended to read as follows:

8 (a) To refuse to sell, rent or lease or otherwise to deny to or with-
9 hold from any person or group of persons such housing accommodations
10 because of the race, creed, color, disability, national origin, sexual
11 orientation, military status, age, sex, marital status, ~~[ex]~~ familial
12 status, or source of income of such person or persons, or to represent
13 that any housing accommodation or land is not available for inspection,
14 sale, rental or lease when in fact it is so available.

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

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

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

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

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

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

49 (3) To print or circulate or cause to be printed or circulated any
50 statement, advertisement or publication, or to use any form of applica-
51 tion for the purchase, rental or lease of such housing accommodation or
52 to make any record or inquiry in connection with the prospective
53 purchase, rental or lease of such a housing accommodation which
54 expresses, directly or indirectly, any limitation, specification or
55 discrimination as to race, creed, color, national origin, sexual orien-
56 tation, military status, sex, age, disability, marital status, ~~[ex]~~

1 familial status, or source of income, or any intent to make any such
2 limitation, specification or discrimination.

3 The provisions of this paragraph [~~(a)~~] shall not apply[~~(1)~~] : (i) to
4 the rental of a housing accommodation in a building which contains hous-
5 ing accommodations for not more than two families living independently
6 of each other, if the owner resides in one of such housing accommo-
7 dations, [~~(2)~~] (ii) to the restriction of the rental of all rooms in a
8 housing accommodation to individuals of the same sex or [~~(3)~~] (iii) to
9 the rental of a room or rooms in a housing accommodation, if such rental
10 is by the occupant of the housing accommodation or by the owner of the
11 housing accommodation and the owner resides in such housing accommo-
12 dation or [~~(4)~~] (iv) solely with respect to age and familial status to
13 the restriction of the sale, rental or lease of housing accommodations
14 exclusively to persons sixty-two years of age or older and the spouse of
15 any such person, or for housing intended and operated for occupancy by
16 at least one person fifty-five years of age or older per unit. In deter-
17 mining whether housing is intended and operated for occupancy by persons
18 fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607
19 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall
20 apply.

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

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

32 (2) To discriminate against any person because of race, creed, color,
33 national origin, sexual orientation, military status, sex, age, disabili-
34 ty, marital status, [~~or~~] familial status, or source of income in the
35 terms, conditions or privileges of the sale, rental or lease of any such
36 land or commercial space; or in the furnishing of facilities or services
37 in connection therewith;

38 (3) To print or circulate or cause to be printed or circulated any
39 statement, advertisement or publication, or to use any form of applica-
40 tion for the purchase, rental or lease of such land or commercial space
41 or to make any record or inquiry in connection with the prospective
42 purchase, rental or lease of such land or commercial space which
43 expresses, directly or indirectly, any limitation, specification or
44 discrimination as to race, creed, color, national origin, sexual orien-
45 tation, military status, sex, age, disability, marital status, [~~or~~]
46 familial status, or source of income; or any intent to make any such
47 limitation, specification or discrimination.

48 (4) With respect to age and familial status, the provisions of this
49 paragraph shall not apply to the restriction of the sale, rental or
50 lease of land or commercial space exclusively to persons fifty-five
51 years of age or older and the spouse of any such person, or to the
52 restriction of the sale, rental or lease of land to be used for the
53 construction, or location of housing accommodations exclusively for
54 persons sixty-two years of age or older, or intended and operated for
55 occupancy by at least one person fifty-five years of age or older per
56 unit. In determining whether housing is intended and operated for occu-

1 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)
2 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as
3 amended, shall apply.

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

6 (1) To refuse to sell, rent or lease any housing accommodation, land
7 or commercial space to any person or group of persons or to refuse to
8 negotiate for the sale, rental or lease, of any housing accommodation,
9 land or commercial space to any person or group of persons because of
10 the race, creed, color, national origin, sexual orientation, military
11 status, sex, age, disability, marital status, ~~[ex]~~ familial status, or
12 source of income of such person or persons, or to represent that any
13 housing accommodation, land or commercial space is not available for
14 inspection, sale, rental or lease when in fact it is so available, or
15 otherwise to deny or withhold any housing accommodation, land or commer-
16 cial space or any facilities of any housing accommodation, land or
17 commercial space from any person or group of persons because of the
18 race, creed, color, national origin, sexual orientation, military
19 status, sex, age, disability, marital status, ~~[ex]~~ familial status, or
20 source of income of such person or persons.

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

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

44 (d) It shall be an unlawful discriminatory practice for any real
45 estate board, because of the race, creed, color, national origin, sexual
46 orientation, military status, age, sex, disability, marital status, ~~[ex]~~
47 familial status, or source of income of any individual who is otherwise
48 qualified for membership, to exclude or expel such individual from
49 membership, or to discriminate against such individual in the terms,
50 conditions and privileges of membership in such board.

51 (e) It shall be an unlawful discriminatory practice for the owner,
52 proprietor or managing agent of, or other person having the right to
53 provide care and services in, a private proprietary nursing home, conva-
54 lescent home, or home for adults, or an intermediate care facility, as
55 defined in section two of the social services law, heretofore
56 constructed, or to be constructed, or any agent or employee thereof, to

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

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

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

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

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

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

48 § 6. This act shall take effect immediately.