STATE OF NEW YORK

10407

IN ASSEMBLY

May 4, 2020

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Housing

AN ACT to amend the executive law and the administrative code of the city of New York, in relation to potential tenants with a criminal history; and to amend the public housing law, in relation to public housing applicants with a criminal history

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

Section 1. Subdivision 1 of section 296 of the executive law is amended by adding a new paragraph (i) to read as follows:

(i) For a landlord or his or her agent to deny a potential tenant's application for rental based solely upon such potential tenant's criminal history.

§ 2. Paragraphs (e) and (f) of subdivision 1 of section 8-107 of the administrative code of the city of New York, paragraph (e) as amended by local law number 63 of the city of New York for the year 2018, and paragraph (f) as amended by local law number 172 of the city of New York for the year 2019, are amended to read as follows:

(e) **For a landlord or his or her agent to deny a potential tenant's application for rental based solely upon such potential tenant's criminal history.**

(f) The provisions of this subdivision and subdivision 2 of this section: (i) as they apply to employee benefit plans, shall not be construed to preclude an employer from observing the provisions of any plan covered by the federal employment retirement income security act of 1974 that is in compliance with applicable federal discrimination laws where the application of the provisions of such subdivisions to such plan would be preempted by such act; (ii) shall not preclude the varying of insurance coverages according to an employee's age; (iii) shall not be construed to affect any retirement policy or system that is permitted pursuant to paragraphs (e) and (f) of subdivision 3-a of section 296 of the executive law; (iv) shall not be construed to affect the retirement policy or system of an employer where such policy or system is not a subterfuge to evade the purposes of this chapter.

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

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[~~(f)~~] **(g)** The provisions of this subdivision do not govern the employment by an employer of the employer's parents, spouse, domestic partner, or children; provided, however, that such family members shall be counted as persons employed by an employer for the purposes of the definition of employer set forth in section 8-102.

§ 3. Section 14 of the public housing law is amended by adding a new subdivision 8 to read as follows:

8. The commissioner shall promulgate rules and regulations for state or locally funded rental subsidies or affordable housing lotteries, which:

(a) prohibit any state or locally funded rental subsidy or affordable housing lottery from inquiring about an applicant's criminal history before such applicant has been found eligible for such rental subsidy or affordable housing lottery;

(b) develop strict criteria under which only individuals with a criminal history directly relating to public safety may be denied a rental subsidy or affordable housing lottery based on such criminal history;

(c) prohibit any sealed criminal records of applicants for rental subsidies or affordable housing lotteries from being considered in the application process; and

(d) allow applicants whose applications are rejected to appeal such rejection.

§ 4. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.