

# STATE OF NEW YORK

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6472

2019-2020 Regular Sessions

## IN ASSEMBLY

March 7, 2019

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Introduced by M. of A. WALLACE, SIMON, McDONOUGH, BURKE, PAULIN, GOTTFRIED, BRAUNSTEIN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to unlawful discriminatory practices

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

1 Section 1. Subdivision 9 of section 297 of the executive law, as  
2 amended by section 16 of part D of chapter 405 of the laws of 1999, is  
3 amended to read as follows:

4 9. Any person claiming to be aggrieved by an unlawful discriminatory  
5 practice shall have a cause of action in any court of appropriate juris-  
6 diction for damages, including, [~~in cases of housing discrimination~~  
7 ~~only~~], punitive damages, and such other remedies as may be appropriate,  
8 including any civil fines and penalties provided in subdivision four of  
9 this section, unless such person had filed a complaint hereunder or with  
10 any local commission on human rights, or with the superintendent pursu-  
11 ant to the provisions of section two hundred ninety-six-a of this chap-  
12 ter, provided that, where the division has dismissed such complaint on  
13 the grounds of administrative convenience, on the grounds of untimeli-  
14 ness, or on the grounds that the election of remedies is annulled, such  
15 person shall maintain all rights to bring suit as if no complaint had  
16 been filed with the division. At any time prior to a hearing before a  
17 hearing examiner, a person who has a complaint pending at the division  
18 may request that the division dismiss the complaint and annul his or her  
19 election of remedies so that the human rights law claim may be pursued  
20 in court, and the division may, upon such request, dismiss the complaint  
21 on the grounds that such person's election of an administrative remedy  
22 is annulled. Notwithstanding subdivision (a) of section two hundred four  
23 of the civil practice law and rules, if a complaint is so annulled by  
24 the division, upon the request of the party bringing such complaint

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

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1 before the division, such party's rights to bring such cause of action  
2 before a court of appropriate jurisdiction shall be limited by the stat-  
3 ute of limitations in effect in such court at the time the complaint was  
4 initially filed with the division. Any party to a housing discrimination  
5 complaint shall have the right within twenty days following a determi-  
6 nation of probable cause pursuant to subdivision two of this section to  
7 elect to have an action commenced in a civil court, and an attorney  
8 representing the division of human rights will be appointed to present  
9 the complaint in court, or, with the consent of the division, the case  
10 may be presented by complainant's attorney. A complaint filed by the  
11 equal employment opportunity commission to comply with the requirements  
12 of 42 USC 2000e-5(c) and 42 USC 12117(a) and 29 USC 633(b) shall not  
13 constitute the filing of a complaint within the meaning of this subdivi-  
14 sion. No person who has initiated any action in a court of competent  
15 jurisdiction or who has an action pending before any administrative  
16 agency under any other law of the state based upon an act which would be  
17 an unlawful discriminatory practice under this article, may file a  
18 complaint with respect to the same grievance under this section or under  
19 section two hundred ninety-six-a of this article.

20 § 2. This act shall take effect immediately.