

# STATE OF NEW YORK

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7729

2019-2020 Regular Sessions

## IN ASSEMBLY

May 17, 2019

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Introduced by M. of A. FERNANDEZ -- read once and referred to the  
Committee on Governmental Operations

AN ACT to amend the executive law, in relation to prohibiting discrimination based on criminal history in the sale or rental of real property

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

1 Section 1. Paragraphs (a), (b) and (c) of subdivision 2-a of section  
2 296 of the executive law, as amended by section 3 of part T of chapter  
3 56 of the laws of 2019, are amended to read as follows:

4 (a) To refuse to sell, rent or lease or otherwise to deny to or with-  
5 hold from any person or group of persons such housing accommodations  
6 because of the race, creed, color, disability, national origin, sexual  
7 orientation, gender identity or expression, military status, age, sex,  
8 marital status, lawful source of income, criminal history, or familial  
9 status of such person or persons, or to represent that any housing  
10 accommodation or land is not available for inspection, sale, rental or  
11 lease when in fact it is so available.

12 (b) To discriminate against any person because of his or her race,  
13 creed, color, disability, national origin, sexual orientation, gender  
14 identity or expression, military status, age, sex, marital status,  
15 lawful source of income, criminal history, or familial status in the  
16 terms, conditions or privileges of any publicly-assisted housing accom-  
17 modations or in the furnishing of facilities or services in connection  
18 therewith.

19 (c) To cause to be made any written or oral inquiry or record concern-  
20 ing the race, creed, color, disability, national origin, sexual orien-  
21 tation, gender identity or expression, membership in the reserve armed  
22 forces of the United States or in the organized militia of the state,  
23 age, sex, marital status, lawful source of income, criminal history, or  
24 familial status of a person seeking to rent or lease any publicly-as-

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

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1 sisted housing accommodation; provided, however, that nothing in this  
2 subdivision shall prohibit a member of the reserve armed forces of the  
3 United States or in the organized militia of the state from voluntarily  
4 disclosing such membership.

5 § 2. Paragraphs (a), (b), (c) and (d) of subdivision 5 of section 296  
6 of the executive law, paragraphs (a), (b) and (c) as amended by chapter  
7 8 of the laws of 2019, subparagraphs 1, 2 and 3 of paragraph (a) as  
8 amended by section 4, subparagraphs 1 and 2 of paragraph (c) as amended  
9 by section 5, and paragraph (d) as amended by section 6 of part T of  
10 chapter 56 of the laws of 2019, are amended to read as follows:

11 (a) It shall be an unlawful discriminatory practice for the owner,  
12 lessee, sub-lessee, assignee, or managing agent of, or other person  
13 having the right to sell, rent or lease a housing accommodation,  
14 constructed or to be constructed, or any agent or employee thereof:

15 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold  
16 from any person or group of persons such a housing accommodation because  
17 of the race, creed, color, national origin, sexual orientation, gender  
18 identity or expression, military status, sex, age, disability, marital  
19 status, lawful source of income, criminal history, or familial status of  
20 such person or persons, or to represent that any housing accommodation  
21 or land is not available for inspection, sale, rental or lease when in  
22 fact it is so available.

23 (2) To discriminate against any person because of race, creed, color,  
24 national origin, sexual orientation, gender identity or expression,  
25 military status, sex, age, disability, marital status, lawful source of  
26 income, criminal history, or familial status in the terms, conditions or  
27 privileges of the sale, rental or lease of any such housing accommo-  
28 dation or in the furnishing of facilities or services in connection  
29 therewith.

30 (3) To print or circulate or cause to be printed or circulated any  
31 statement, advertisement or publication, or to use any form of applica-  
32 tion for the purchase, rental or lease of such housing accommodation or  
33 to make any record or inquiry in connection with the prospective  
34 purchase, rental or lease of such a housing accommodation which  
35 expresses, directly or indirectly, any limitation, specification or  
36 discrimination as to race, creed, color, national origin, sexual orien-  
37 tation, gender identity or expression, military status, sex, age, disa-  
38 bility, marital status, lawful source of income, criminal history, or  
39 familial status, or any intent to make any such limitation, specifica-  
40 tion or discrimination.

41 The provisions of this paragraph [~~(a)~~] shall not apply (1) to the  
42 rental of a housing accommodation in a building which contains housing  
43 accommodations for not more than two families living independently of  
44 each other, if the owner resides in one of such housing accommodations,  
45 (2) to the restriction of the rental of all rooms in a housing accommo-  
46 dation to individuals of the same sex or (3) to the rental of a room or  
47 rooms in a housing accommodation, if such rental is by the occupant of  
48 the housing accommodation or by the owner of the housing accommodation  
49 and the owner resides in such housing accommodation or (4) solely with  
50 respect to age and familial status to the restriction of the sale,  
51 rental or lease of housing accommodations exclusively to persons sixty-  
52 two years of age or older and the spouse of any such person, or for  
53 housing intended and operated for occupancy by at least one person  
54 fifty-five years of age or older per unit. In determining whether hous-  
55 ing is intended and operated for occupancy by persons fifty-five years

1 of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the  
2 federal Fair Housing Act of 1988, as amended, shall apply.

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

7 (1) To refuse to sell, rent, lease or otherwise deny to or withhold  
8 from any person or group of persons land or commercial space because of  
9 the race, creed, color, national origin, sexual orientation, gender  
10 identity or expression, military status, sex, age, disability, marital  
11 status, criminal history, or familial status of such person or persons,  
12 or to represent that any housing accommodation or land is not available  
13 for inspection, sale, rental or lease when in fact it is so available;

14 (2) To discriminate against any person because of race, creed, color,  
15 national origin, sexual orientation, gender identity or expression,  
16 military status, sex, age, disability, marital status, criminal history,  
17 or familial status in the terms, conditions or privileges of the sale,  
18 rental or lease of any such land or commercial space; or in the furnish-  
19 ing of facilities or services in connection therewith;

20 (3) To print or circulate or cause to be printed or circulated any  
21 statement, advertisement or publication, or to use any form of applica-  
22 tion for the purchase, rental or lease of such land or commercial space  
23 or to make any record or inquiry in connection with the prospective  
24 purchase, rental or lease of such land or commercial space which  
25 expresses, directly or indirectly, any limitation, specification or  
26 discrimination as to race, creed, color, national origin, sexual orien-  
27 tation, gender identity or expression, military status, sex, age, disa-  
28 bility, marital status, criminal history, or familial status; or any  
29 intent to make any such limitation, specification or discrimination.

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

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

44 (1) To refuse to sell, rent or lease any housing accommodation, land  
45 or commercial space to any person or group of persons or to refuse to  
46 negotiate for the sale, rental or lease, of any housing accommodation,  
47 land or commercial space to any person or group of persons because of  
48 the race, creed, color, national origin, sexual orientation, gender  
49 identity or expression, military status, sex, age, disability, marital  
50 status, lawful source of income, criminal history, or familial status of  
51 such person or persons, or to represent that any housing accommodation,  
52 land or commercial space is not available for inspection, sale, rental  
53 or lease when in fact it is so available, or otherwise to deny or with-  
54 hold any housing accommodation, land or commercial space or any facili-  
55 ties of any housing accommodation, land or commercial space from any  
56 person or group of persons because of the race, creed, color, national

1 origin, sexual orientation, gender identity or expression, military  
2 status, sex, age, disability, marital status, lawful source of income,  
3 criminal history, or familial status of such person or persons.

4 (2) To print or circulate or cause to be printed or circulated any  
5 statement, advertisement or publication, or to use any form of applica-  
6 tion for the purchase, rental or lease of any housing accommodation,  
7 land or commercial space or to make any record or inquiry in connection  
8 with the prospective purchase, rental or lease of any housing accommo-  
9 dation, land or commercial space which expresses, directly or indirect-  
10 ly, any limitation, specification, or discrimination as to race, creed,  
11 color, national origin, sexual orientation, gender identity or  
12 expression, military status, sex, age, disability, marital status,  
13 lawful source of income, criminal history, or familial status; or any  
14 intent to make any such limitation, specification or discrimination.

15 (3) With respect to age and familial status, the provisions of this  
16 paragraph shall not apply to the restriction of the sale, rental or  
17 lease of any housing accommodation, land or commercial space exclusively  
18 to persons fifty-five years of age or older and the spouse of any such  
19 person, or to the restriction of the sale, rental or lease of any hous-  
20 ing accommodation or land to be used for the construction or location of  
21 housing accommodations for persons sixty-two years of age or older, or  
22 intended and operated for occupancy by at least one person fifty-five  
23 years of age or older per unit. In determining whether housing is  
24 intended and operated for occupancy by persons fifty-five years of age  
25 or older, Sec. 807 (b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the  
26 federal Fair Housing Act of 1988, as amended, shall apply.

27 (d) It shall be an unlawful discriminatory practice for any real  
28 estate board, because of the race, creed, color, national origin, sexual  
29 orientation, gender identity or expression, military status, age, sex,  
30 disability, marital status, lawful source of income, criminal history,  
31 or familial status of any individual who is otherwise qualified for  
32 membership, to exclude or expel such individual from membership, or to  
33 discriminate against such individual in the terms, conditions and privi-  
34 leges of membership in such board.

35 § 3. This act shall take effect immediately.