

# STATE OF NEW YORK

10894

## IN ASSEMBLY

August 17, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Solages) --  
read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to enforcement of fair  
housing

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

1 Section 1. The executive law is amended by adding a new section 298-b  
2 to read as follows:

3 § 298-b. Enforcement relating to real estate brokers. If the commis-  
4 sioner finds that a violation of subdivision three-b or paragraph (c) of  
5 subdivision five of section two hundred ninety-six of this article has  
6 occurred, the commissioner shall issue an order which shall do one or  
7 more of the following:

8 1. award compensatory damages to the person aggrieved by such  
9 violation;

10 2. to vindicate the public interest, assess a civil penalty: (i) in an  
11 amount not exceeding twenty-five thousand dollars if the respondent has  
12 not been adjudged to have committed any prior discriminatory housing  
13 practice; (ii) in an amount not exceeding fifty thousand dollars if the  
14 respondent has been adjudged to have committed one other discriminatory  
15 practice during the five-year period prior to the date of the filing of  
16 the complaint; and (iii) in an amount not exceeding seventy-five thou-  
17 sand dollars if the respondent has been adjudged to have committed two  
18 or more discriminatory housing practices during the seven-year period  
19 prior to the date of the filing of the complaint, except that if the  
20 acts constituting the discriminatory practice that is the object of the  
21 complaint are committed by the same natural person who has been previ-  
22 ously adjudged to have committed acts constituting a discriminatory  
23 housing practice, then the civil penalties set forth in subparagraphs  
24 (ii) and (iii) of this paragraph may be imposed without regard to the  
25 period of time within which any subsequent discriminatory practice  
26 occurred;

27 3. require the respondent to cease and desist from such unlawful  
28 discriminatory practices.

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

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1 § 2. Section 298 of the executive law, as amended by chapter 166 of  
2 the laws of 2000, is amended to read as follows:

3 § 298. Judicial review and enforcement. 1. Any complainant, respondent  
4 or other person aggrieved by an order of the commissioner which is an  
5 order after public hearing, a cease and desist order, an order awarding  
6 damages, an order dismissing a complaint, or by an order of the division  
7 which makes a final disposition of a complaint may obtain judicial  
8 review thereof, and the division may obtain an order of court for its  
9 enforcement and for the enforcement of any order of the commissioner  
10 which has not been appealed to the court, in a proceeding as provided in  
11 this section. Such proceeding shall be brought in the supreme court in  
12 the county wherein the unlawful discriminatory practice which is the  
13 subject of the order occurs or wherein any person required in the order  
14 to cease and desist from an unlawful discriminatory practice or to take  
15 other affirmative action resides or transacts business. Such proceeding  
16 shall be initiated by the filing of a notice of petition and petition in  
17 such court. Thereafter, at a time and in a manner to be specified by  
18 rules of court, the division shall file with the court a written tran-  
19 script of the record of all prior proceedings. Upon the filing of a  
20 notice of petition and petition, the court shall have jurisdiction of  
21 the proceeding and of the questions determined therein, except that  
22 where the order sought to be reviewed was made as a result of a public  
23 hearing held pursuant to paragraph a of subdivision four of section two  
24 hundred ninety-seven of this article, the court shall make an order  
25 directing that the proceeding be transferred for disposition to the  
26 appellate division of the supreme court in the judicial department  
27 embracing the county in which the proceeding was commenced. The court  
28 shall have power to grant such temporary relief or restraining order as  
29 it deems just and proper, and to make and enter upon the pleadings,  
30 testimony, and proceedings set forth in such transcript an order enforc-  
31 ing, modifying, and enforcing as so modified, or setting aside in whole  
32 or in part such order. No objection that has not been urged in prior  
33 proceedings shall be considered by the court, unless the failure or  
34 neglect to urge such objection shall be excused because of extraordinary  
35 circumstances. Any party may move the court to remit the case to the  
36 division in the interests of justice for the purpose of adducing addi-  
37 tional specified and material evidence and seeking findings thereon,  
38 provided he or she shows reasonable grounds for the failure to adduce  
39 such evidence in prior proceedings. The findings of facts on which such  
40 order is based shall be conclusive if supported by sufficient evidence  
41 on the record considered as a whole. All such proceedings shall be heard  
42 and determined by the court and any appeal taken from its judgment or  
43 order shall be reviewed by the appropriate appellate court as expe-  
44 ditiously as possible and with lawful precedence over other matters. The  
45 jurisdiction of the courts over these proceedings, as provided for here-  
46 in, shall be exclusive and their judgments and orders shall be final,  
47 subject to appellate review in the same manner and form and with the  
48 same effect as provided for appeals from a judgment in a special  
49 proceeding. The division's copy of the testimony shall be available at  
50 all reasonable times to all parties for examination without cost and for  
51 the purposes of judicial review of such order. Any appeal under this  
52 section and any proceeding, if instituted under article seventy-eight of  
53 the civil practice law and rules to which the division or the board is a  
54 party shall be heard on the record without requirement of printing. The  
55 division may appear in court by one of its attorneys. A proceeding under  
56 this section when instituted by any complainant, respondent or other

1 person aggrieved must be instituted within sixty days after the service  
2 of such order.

3 2. In an action filed by the attorney general pursuant to subdivision  
4 twelve of section sixty-three of this chapter, in addition to any other  
5 available relief, a court may, to vindicate the public interest, assess  
6 a civil penalty against the respondent in an amount that does not exceed  
7 the following:

8 (a) If the defendant is a natural person, (i) fifty thousand dollars  
9 for a first violation, and (ii) one hundred thousand dollars for a  
10 second or subsequent violation.

11 (b) If the defendant is a corporate entity, (i) one hundred thousand  
12 dollars for a first violation and (ii) two hundred fifty thousand  
13 dollars for a second or subsequent violation.

14 § 3. This act shall take effect immediately.