

STATE OF NEW YORK

5891

2019-2020 Regular Sessions

IN ASSEMBLY

February 20, 2019

Introduced by M. of A. MOSLEY -- read once and referred to the Committee on Governmental 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 36 to read as follows:

36. 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 8 of the laws of 2019, 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, gender identity or expression, military status, sex, source of income, 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, gender identity or expression, military

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

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1 status, sex, source of income, disability or marital status, or that the
2 patronage or custom thereof of any person or purporting to be of any
3 particular race, creed, color, national origin, sexual orientation,
4 gender identity or expression, military status, source of income, sex or
5 marital status, or having a disability is unwelcome, objectionable or
6 not acceptable, desired or solicited.

7 § 3. Paragraphs (a), (b) and (c) of subdivision 2-a of section 296 of
8 the executive law, as amended by chapter 8 of the laws of 2019, are
9 amended to read as follows:

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

18 (b) To discriminate against any person because of his or her race,
19 creed, color, disability, national origin, sexual orientation, gender
20 identity or expression, military status, age, sex, marital status, ~~[ex]~~
21 familial status, or source of income in the terms, conditions or privi-
22 leges of any publicly-assisted housing accommodations or in the furnish-
23 ing of facilities or services in connection therewith.

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

34 § 4. Subdivision 5 of section 296 of the executive law, as amended by
35 chapter 8 of the laws of 2019, is amended to read as follows:

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

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

48 (2) To discriminate against any person because of race, creed, color,
49 national origin, sexual orientation, gender identity or expression,
50 military status, sex, age, disability, marital status, ~~[ex]~~ familial
51 status, or source of income in the terms, conditions or privileges of
52 the sale, rental or lease of any such housing accommodation or in the
53 furnishing of facilities or services in connection therewith.

54 (3) To print or circulate or cause to be printed or circulated any
55 statement, advertisement or publication, or to use any form of applica-
56 tion for the purchase, rental or lease of such housing accommodation or

1 to make any record or inquiry in connection with the prospective
2 purchase, rental or lease of such a housing accommodation which
3 expresses, directly or indirectly, any limitation, specification or
4 discrimination as to race, creed, color, national origin, sexual orien-
5 tation, gender identity or expression, military status, sex, age, disa-
6 bility, marital status, ~~[ex]~~ familial status, or source of income, or
7 any intent to make any such limitation, specification or discrimination.

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

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

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

37 (2) To discriminate against any person because of race, creed, color,
38 national origin, sexual orientation, gender identity or expression,
39 military status, sex, age, disability, marital status, ~~[ex]~~ familial
40 status, or source of income in the terms, conditions or privileges of
41 the sale, rental or lease of any such land or commercial space; or in
42 the furnishing of facilities or services in connection therewith;

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

53 (4) With respect to age and familial status, the provisions of this
54 paragraph shall not apply to the restriction of the sale, rental or
55 lease of land or commercial space exclusively to persons fifty-five
56 years of age or older and the spouse of any such person, or to the

1 restriction of the sale, rental or lease of land to be used for the
2 construction, or location of housing accommodations exclusively for
3 persons sixty-two years of age or older, or intended and operated for
4 occupancy by at least one person fifty-five years of age or older per
5 unit. In determining whether housing is intended and operated for occu-
6 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)
7 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as
8 amended, shall apply.

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

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

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

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

50 (d) It shall be an unlawful discriminatory practice for any real
51 estate board, because of the race, creed, color, national origin, sexual
52 orientation, gender identity or expression, military status, age, sex,
53 disability, marital status, ~~[ex]~~ familial status, or source of income of
54 any individual who is otherwise qualified for membership, to exclude or
55 expel such individual from membership, or to discriminate against such

1 individual in the terms, conditions and privileges of membership in such
2 board.

3 (e) It shall be an unlawful discriminatory practice for the owner,
4 proprietor or managing agent of, or other person having the right to
5 provide care and services in, a private proprietary nursing home, conva-
6 lescent home, or home for adults, or an intermediate care facility, as
7 defined in section two of the social services law, heretofore
8 constructed, or to be constructed, or any agent or employee thereof, to
9 refuse to provide services and care in such home or facility to any
10 individual or to discriminate against any individual in the terms,
11 conditions, and privileges of such services and care solely because such
12 individual is a blind person. For purposes of this paragraph, a "blind
13 person" shall mean a person who is registered as a blind person with the
14 commission for the visually handicapped and who meets the definition of
15 a "blind person" pursuant to section three of chapter four hundred
16 fifteen of the laws of nineteen hundred thirteen entitled "An act to
17 establish a state commission for improving the condition of the blind of
18 the state of New York, and making an appropriation therefor".

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

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

30 § 5. This act shall take effect immediately; provided, however, that
31 if chapter 8 of the laws of 2019 shall not have taken effect on or
32 before such date, then sections two, three and four of this act shall
33 take effect on the same date and in the same manner as such chapter of
34 the laws of 2019, takes effect.