

STATE OF NEW YORK

3011

2019-2020 Regular Sessions

IN SENATE

January 31, 2019

Introduced by Sens. COMRIE, MONTGOMERY, PARKER, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government 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. Paragraphs (a), (b) and (c) of subdivision 2-a of section 296 of the executive law, as amended by chapter 8 of the laws of 2019, are amended to read as follows:

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

(b) To discriminate against any person because of his or her race, creed, color, disability, national origin, sexual orientation, gender identity or expression, military status, age, sex, marital status, ~~or~~ familial status, or source of income in the terms, conditions or privi-

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

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leges of any publicly-assisted housing accommodations or in the furnishing of facilities or services in connection therewith.

(c) To cause to be made any written or oral inquiry or record concerning the race, creed, color, disability, national origin, sexual orientation, gender identity or expression, membership in the reserve armed forces of the United States or in the organized militia of the state, age, sex, marital status, ~~[or]~~ familial status, or source of income of a person seeking to rent or lease any publicly-assisted housing accommodation; provided, however, that nothing in this subdivision shall prohibit a member of the reserve armed forces of the United States or in the organized militia of the state from voluntarily disclosing such membership, and provided further, however, that the provisions of this paragraph shall not be construed to prevent an owner, lessee, sub-lessee, assignee or managing agent from obtaining a credit report detailing such person's credit worthiness.

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

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

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

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

(3) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such housing accommodation or to make any record or inquiry in connection with the prospective purchase, rental or lease of such a housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, ~~[or]~~ familial status, or source of income, or any intent to make any such limitation, specification or discrimination, provided, however, that the provisions of this subparagraph shall not be construed to prevent an owner, lessee, sub-lessee, assignee, or managing agent of, or other person having the right to sell, rent or lease a housing accommodation, constructed to be constructed, or any agent or employee thereof from obtaining a credit report detailing the credit worthiness of any prospective individuals seeking to purchase, rent or lease a housing accommodation.

The provisions of this paragraph (a) shall not apply (1) to the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner resides in one of such housing accommodations, (2)

1 to the restriction of the rental of all rooms in a housing accommodation
2 to individuals of the same sex or (3) to the rental of a room or rooms
3 in a housing accommodation, if such rental is by the occupant of the
4 housing accommodation or by the owner of the housing accommodation and
5 the owner resides in such housing accommodation or (4) solely with
6 respect to age and familial status to the restriction of the sale,
7 rental or lease of housing accommodations exclusively to persons sixty-
8 two years of age or older and the spouse of any such person, or for
9 housing intended and operated for occupancy by at least one person
10 fifty-five years of age or older per unit. In determining whether hous-
11 ing is intended and operated for occupancy by persons fifty-five years
12 of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the
13 federal Fair Housing Act of 1988, as amended, shall apply.

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

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

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

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

42 (4) With respect to age and familial status, the provisions of this
43 paragraph shall not apply to the restriction of the sale, rental or
44 lease of land or commercial space exclusively to persons fifty-five
45 years of age or older and the spouse of any such person, or to the
46 restriction of the sale, rental or lease of land to be used for the
47 construction, or location of housing accommodations exclusively for
48 persons sixty-two years of age or older, or intended and operated for
49 occupancy by at least one person fifty-five years of age or older per
50 unit. In determining whether housing is intended and operated for occu-
51 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)
52 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as
53 amended, shall apply.

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

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

(2) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of any housing accommodation, land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of any housing accommodation, land or commercial space which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, ~~[or]~~ familial status, or source of income; or any intent to make any such limitation, specification or discrimination.

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

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

(e) It shall be an unlawful discriminatory practice for the owner, proprietor or managing agent of, or other person having the right to provide care and services in, a private proprietary nursing home, convalescent home, or home for adults, or an intermediate care facility, as defined in section two of the social services law, heretofore constructed, or to be constructed, or any agent or employee thereof, to refuse to provide services and care in such home or facility to any individual or to discriminate against any individual in the terms, conditions, and privileges of such services and care solely because such

1 individual is a blind person. For purposes of this paragraph, a "blind
2 person" shall mean a person who is registered as a blind person with the
3 commission for the visually handicapped and who meets the definition of
4 a "blind person" pursuant to section three of chapter four hundred
5 fifteen of the laws of nineteen hundred thirteen entitled "An act to
6 establish a state commission for improving the condition of the blind of
7 the state of New York, and making an appropriation therefor".

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

10 (g) It shall be an unlawful discriminatory practice for any person
11 offering or providing housing accommodations, land or commercial space
12 as described in paragraphs (a), (b), and (c) of this subdivision to make
13 or cause to be made any written or oral inquiry or record concerning
14 membership of any person in the state organized militia in relation to
15 the purchase, rental or lease of such housing accommodation, land, or
16 commercial space, provided, however, that nothing in this subdivision
17 shall prohibit a member of the state organized militia from voluntarily
18 disclosing such membership.

19 (h) The provisions of this subdivision prohibiting discriminatory
20 practices based on source of income shall not be construed to prohibit
21 the refusal of a sale, rental or lease of commercial space based on the
22 type of commercial activity such purchaser, renter or lessee will use
23 such commercial space for.

24 § 4. Section 296 of the executive law is amended by adding a new
25 subdivision 22 to read as follows:

26 22. (a) Notwithstanding the provisions of subdivisions two-a and five
27 of this section relating to the prohibition of unlawful discriminatory
28 practices based on source of income, such provisions shall not apply to
29 housing accommodations that: (i) contain fewer than three housing
30 units; or (ii) contain a total of five or fewer housing units located
31 within a municipality that had a local law pertaining to such discrimi-
32 natory practices, which exempted housing accommodations that contained
33 five or fewer housing units from such prohibition, in existence prior to
34 the effective date of this subdivision, provided, however, that if such
35 local law is repealed after the effective date of this subdivision, the
36 provisions of this section relating to the prohibition of unlawful
37 discriminatory practices based on source of income shall apply to such
38 housing accommodations.

39 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
40 sion, the provisions of subdivisions two-a and five of this section
41 relating to the prohibition of unlawful discriminatory practices based
42 on source of income shall apply (i) to tenants subject to rent control
43 laws who reside in housing accommodations that contain a total of five
44 or fewer units as of the effective date of this subdivision; and (ii) to
45 all housing accommodations, regardless of the number of units contained
46 in each, of any owner or any agent thereof who has the right to sell,
47 rent or lease or approve the sale, rental or lease of at least one hous-
48 ing accommodation within the state of New York that contains six or more
49 housing units, constructed or to be constructed, or an interest therein.

50 § 5. This act shall take effect immediately; provided, however, that
51 if chapter 8 of the laws of 2019 shall not have taken effect on or
52 before such date then sections two and three of this act shall take
53 effect on the same date and in the same manner as such chapter of the
54 laws of 2019, takes effect.