

# STATE OF NEW YORK

3303

2019-2020 Regular Sessions

## IN SENATE

February 5, 2019

Introduced by Sen. PARKER -- 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. 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

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

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

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

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

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

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

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

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

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

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

55 (3) To print or circulate or cause to be printed or circulated any  
56 statement, advertisement or publication, or to use any form of applica-

tion 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, ~~[ex]~~ family status, or source of income, or any intent to make any such limitation, specification or discrimination.

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) to the restriction of the rental of all rooms in a housing accommodation to individuals of the same sex or (3) to the rental of a room or rooms in a housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner resides in such housing accommodation or (4) solely with respect to age and family status to the restriction of the sale, rental or lease of housing accommodations exclusively to persons sixty-two years of age or older and the spouse of any such person, or for housing 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.

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

(1) To refuse to sell, rent, lease or otherwise deny to or withhold from any person or group of persons land or commercial space because of the race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, ~~[ex]~~ family 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, ~~[ex]~~ family status, or source of income in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial space; 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 land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of such 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, ~~[ex]~~ family status, or source of income; or any intent to make any such limitation, specification or discrimination.

(4) With respect to age and family status, the provisions of this paragraph shall not apply to the restriction of the sale, rental or lease of land or commercial space exclusively to persons fifty-five

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

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

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

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

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

51 (d) It shall be an unlawful discriminatory practice for any real  
52 estate board, because of the race, creed, color, national origin, sexual  
53 orientation, gender identity or expression, military status, age, sex,  
54 disability, marital status, ~~[or]~~ or source of income of  
55 any individual who is otherwise qualified for membership, to exclude or  
56 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.