

# STATE OF NEW YORK

7632--A

## IN SENATE

February 3, 2020

Introduced by Sen. THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 Assembly, 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 the conduct of owners, agents,  
4 employees and others involved in the sale or rental of housing. If the  
5 commissioner finds that a violation of subdivision two-a, subdivision  
6 three-b or subdivision five of section two hundred ninety-six of this  
7 article has occurred, the commissioner shall issue an order which shall  
8 do one or more of the following:

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

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

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

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1 occurred. Any civil penalty imposed pursuant to this subdivision shall  
2 not limit the award of damages or other relief available at law or in  
3 equity to the person aggrieved by such violation;

4 3. require the respondent to cease and desist from such unlawful  
5 discriminatory practices;

6 4. award punitive damages to the person aggrieved by such violation;

7 5. grant such other relief the commissioner deems just and equitable.

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

10 § 298. Judicial review and enforcement. 1. Any complainant, respondent  
11 or other person aggrieved by an order of the commissioner which is an  
12 order after public hearing, a cease and desist order, an order awarding  
13 damages, an order dismissing a complaint, or by an order of the division  
14 which makes a final disposition of a complaint may obtain judicial  
15 review thereof, and the division may obtain an order of court for its  
16 enforcement and for the enforcement of any order of the commissioner  
17 which has not been appealed to the court, in a proceeding as provided in  
18 this section. Such proceeding shall be brought in the supreme court in  
19 the county wherein the unlawful discriminatory practice which is the  
20 subject of the order occurs or wherein any person required in the order  
21 to cease and desist from an unlawful discriminatory practice or to take  
22 other affirmative action resides or transacts business. Such proceeding  
23 shall be initiated by the filing of a notice of petition and petition in  
24 such court. Thereafter, at a time and in a manner to be specified by  
25 rules of court, the division shall file with the court a written tran-  
26 script of the record of all prior proceedings. Upon the filing of a  
27 notice of petition and petition, the court shall have jurisdiction of  
28 the proceeding and of the questions determined therein, except that  
29 where the order sought to be reviewed was made as a result of a public  
30 hearing held pursuant to paragraph a of subdivision four of section two  
31 hundred ninety-seven of this article, the court shall make an order  
32 directing that the proceeding be transferred for disposition to the  
33 appellate division of the supreme court in the judicial department  
34 embracing the county in which the proceeding was commenced. The court  
35 shall have power to grant such temporary relief or restraining order as  
36 it deems just and proper, and to make and enter upon the pleadings,  
37 testimony, and proceedings set forth in such transcript an order enforc-  
38 ing, modifying, and enforcing as so modified, or setting aside in whole  
39 or in part such order. No objection that has not been urged in prior  
40 proceedings shall be considered by the court, unless the failure or  
41 neglect to urge such objection shall be excused because of extraordinary  
42 circumstances. Any party may move the court to remit the case to the  
43 division in the interests of justice for the purpose of adducing addi-  
44 tional specified and material evidence and seeking findings thereon,  
45 provided he or she shows reasonable grounds for the failure to adduce  
46 such evidence in prior proceedings. The findings of facts on which such  
47 order is based shall be conclusive if supported by sufficient evidence  
48 on the record considered as a whole. All such proceedings shall be heard  
49 and determined by the court and any appeal taken from its judgment or  
50 order shall be reviewed by the appropriate appellate court as expe-  
51 ditiously as possible and with lawful precedence over other matters. The  
52 jurisdiction of the courts over these proceedings, as provided for here-  
53 in, shall be exclusive and their judgments and orders shall be final,  
54 subject to appellate review in the same manner and form and with the  
55 same effect as provided for appeals from a judgment in a special  
56 proceeding. The division's copy of the testimony shall be available at

1 all reasonable times to all parties for examination without cost and for  
2 the purposes of judicial review of such order. Any appeal under this  
3 section and any proceeding, if instituted under article seventy-eight of  
4 the civil practice law and rules to which the division or the board is a  
5 party shall be heard on the record without requirement of printing. The  
6 division may appear in court by one of its attorneys. A proceeding under  
7 this section when instituted by any complainant, respondent or other  
8 person aggrieved must be instituted within sixty days after the service  
9 of such order.

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

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

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

21 § 3. This act shall take effect immediately.