

# STATE OF NEW YORK

4671

2023-2024 Regular Sessions

## IN ASSEMBLY

February 22, 2023

Introduced by M. of A. PEOPLES-STOKES, COOK, ZINERMAN, SAYEGH -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to institution of court actions

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

1 Section 1. The opening paragraph of subdivision 9 of section 297 of  
2 the executive law, as amended by chapter 140 of the laws of 2022, is  
3 amended to read as follows:

4 Any person claiming to be aggrieved by an unlawful discriminatory  
5 practice shall have a cause of action in any court of appropriate juris-  
6 diction for damages, including, in cases of employment discrimination  
7 related to private employers and housing discrimination only, punitive  
8 damages, and such other remedies as may be appropriate, including any  
9 civil fines and penalties provided in subdivision four of this section,  
10 unless such person had filed a complaint [~~hereunder~~] pursuant to this  
11 section or with any local commission on human rights, or with the super-  
12 intendent pursuant to the provisions of section two hundred ninety-six-a  
13 of this article, provided that, where the division has dismissed such  
14 complaint on the grounds of administrative convenience, on the grounds  
15 of untimeliness, or on the grounds that the election of remedies is  
16 annulled, such person shall maintain all rights to bring suit as if no  
17 complaint had been filed with the division and may bring such suit with-  
18 in three years after any such dismissal for administrative convenience.

19 At any time prior to a hearing before a hearing examiner, a person who  
20 has a complaint pending at the division may request that the division  
21 dismiss the complaint and annul his or her election of remedies so that  
22 the human rights law claim may be pursued in court, and the division  
23 may, upon such request, dismiss the complaint on the grounds that such  
24 person's election of an administrative remedy is annulled. Notwithstand-  
25 ing subdivision (a) of section two hundred four of the civil practice

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

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1 law and rules, if a complaint is so annulled by the division, upon the  
2 request of the party bringing such complaint before the division, such  
3 party's rights to bring such cause of action before a court of appropri-  
4 ate jurisdiction shall be limited by the statute of limitations in  
5 effect in such court at the time the complaint was initially filed with  
6 the division. Any party to a housing discrimination complaint shall have  
7 the right within twenty days following a determination of probable cause  
8 pursuant to subdivision two of this section to elect to have an action  
9 commenced in a civil court, and an attorney representing the division of  
10 human rights [~~will~~] shall be appointed to present the complaint in  
11 court[7] or, with the consent of the division, the case may be presented  
12 by complainant's attorney. A complaint filed by the equal employment  
13 opportunity commission to comply with the requirements of 42 USC  
14 2000e-5(c) and 42 USC 12117(a) and 29 USC 633(b) shall not constitute  
15 the filing of a complaint within the meaning of this subdivision. No  
16 person who has initiated any action in a court of competent jurisdiction  
17 or who has an action pending before any administrative agency under any  
18 other law of the state based upon an act which would be an unlawful  
19 discriminatory practice under this article, may file a complaint with  
20 respect to the same grievance under this section or under section two  
21 hundred ninety-six-a of this article. In cases of housing discrimination  
22 only, a person whose complaint has been dismissed by the division after  
23 investigation for lack of jurisdiction or lack of probable cause may  
24 file the same cause of action in a court of appropriate jurisdiction  
25 pursuant to this section, unless judicial review of such dismissal has  
26 been sought pursuant to section two hundred ninety-eight of this arti-  
27 cle. The attorney general shall have the power to commence an action or  
28 proceeding in the supreme court of the state of New York, if, upon  
29 information or belief, the attorney general is of the opinion that an  
30 employer has been, is, or is about to violate the provisions regarding  
31 unlawful discriminatory retaliation pursuant to subdivision seven of  
32 section two hundred ninety-six of this article. Nothing in this section  
33 shall in any way limit rights or remedies which are otherwise available  
34 under law to the attorney general or any other person authorized to  
35 bring an action under this section.

36 § 2. This act shall take effect immediately.