

# STATE OF NEW YORK

3251

2023-2024 Regular Sessions

## IN SENATE

January 30, 2023

Introduced by Sen. SALAZAR -- 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 prohibiting housing discrimination based on criminal legal system involvement

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

1 Section 1. This act shall be known and may be cited as the "housing  
2 for an equitable reentry and opportunity (HERO) act".

3 § 2. Section 292 of the executive law is amended by adding a new  
4 subdivision 42 to read as follows:

5 42. The term "criminal legal system involvement" shall mean informa-  
6 tion regarding an individual's conviction, arrest, charge, or citation  
7 for an offense, participation in a diversion or deferral of judgment  
8 program, record of an offense that has been sealed, expunged, vacated,  
9 or pardoned, a youthful offender adjudication, or a juvenile delinquency  
10 determination.

11 § 3. Paragraphs (a), (b), (c), and (c-1) of subdivision 2-a of section  
12 296 of the executive law, as separately amended by chapters 202 and 748  
13 of the laws of 2022, are amended to read as follows:

14 (a) To refuse to sell, rent or lease or otherwise to deny to or with-  
15 hold from any person or group of persons such housing accommodations  
16 because of the race, creed, color, disability, national origin, citizen-  
17 ship or immigration status, sexual orientation, gender identity or  
18 expression, military status, age, sex, marital status, status as a  
19 victim of domestic violence, lawful source of income, criminal legal  
20 system involvement or familial status of such person or persons, or to  
21 represent that any housing accommodation or land is not available for  
22 inspection, sale, rental or lease when in fact it is so available.

23 (b) To discriminate against any person because of his or her race,  
24 creed, color, disability, national origin, citizenship or immigration

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

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1 status, sexual orientation, gender identity or expression, military  
2 status, age, sex, marital status, status as a victim of domestic  
3 violence, lawful source of income, criminal legal system involvement or  
4 familial status in the terms, conditions or privileges of any publicly-  
5 assisted housing accommodations or in the furnishing of facilities or  
6 services in connection therewith.

7 (c) To cause to be made any written or oral inquiry or record concern-  
8 ing the race, creed, color, disability, national origin, citizenship or  
9 immigration status, sexual orientation, gender identity or expression,  
10 membership in the reserve armed forces of the United States or in the  
11 organized militia of the state, age, sex, marital status, status as a  
12 victim of domestic violence, lawful source of income, criminal legal  
13 system involvement or familial status of a person seeking to rent or  
14 lease any publicly-assisted housing accommodation; provided, however,  
15 that nothing in this subdivision shall prohibit a member of the reserve  
16 armed forces of the United States or in the organized militia of the  
17 state from voluntarily disclosing such membership.

18 (c-1) To print or circulate or cause to be printed or circulated any  
19 statement, advertisement or publication, or to use any form of applica-  
20 tion for the purchase, rental or lease of such housing accommodation or  
21 to make any record or inquiry in connection with the prospective  
22 purchase, rental or lease of such a housing accommodation which  
23 expresses, directly or indirectly, any limitation, specification or  
24 discrimination as to race, creed, color, national origin, citizenship or  
25 immigration status, sexual orientation, gender identity or expression,  
26 military status, sex, age, disability, marital status, status as a  
27 victim of domestic violence, lawful source of income, criminal legal  
28 system involvement or familial status, or any intent to make any such  
29 limitation, specification or discrimination.

30 § 4. Paragraph (a) of subdivision 5 of section 296 of the executive  
31 law, as separately amended by chapters 202 and 748 of the laws of 2022,  
32 is amended to read as follows:

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

37 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold  
38 from any person or group of persons such a housing accommodation because  
39 of the race, creed, color, national origin, citizenship or immigration  
40 status, sexual orientation, gender identity or expression, military  
41 status, sex, age, disability, marital status, status as a victim of  
42 domestic violence, lawful source of income, criminal legal system  
43 involvement or familial status of such person or persons, or to repre-  
44 sent that any housing accommodation or land is not available for  
45 inspection, sale, rental or lease when in fact it is so available.

46 (2) To discriminate against any person because of race, creed, color,  
47 national origin, citizenship or immigration status, sexual orientation,  
48 gender identity or expression, military status, sex, age, disability,  
49 marital status, status as a victim of domestic violence, lawful source  
50 of income, criminal legal system involvement or familial status in the  
51 terms, conditions or privileges of the sale, rental or lease of any such  
52 housing accommodation or in the furnishing of facilities or services in  
53 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, citizenship or  
5 immigration status, sexual orientation, gender identity or expression,  
6 military status, sex, age, disability, marital status, status as a  
7 victim of domestic violence, lawful source of income, criminal legal  
8 system involvement or familial status, or any intent to make any such  
9 limitation, specification or discrimination.

10 (4) (i) The provisions of subparagraphs one and two of this paragraph  
11 shall not apply (1) to the rental of a housing accommodation in a build-  
12 ing which contains housing accommodations for not more than two families  
13 living independently of each other, if the owner resides in one of such  
14 housing accommodations, (2) to the restriction of the rental of all  
15 rooms in a housing accommodation to individuals of the same sex or (3)  
16 to the rental of a room or rooms in a housing accommodation, if such  
17 rental is by the occupant of the housing accommodation or by the owner  
18 of the housing accommodation and the owner resides in such housing  
19 accommodation or (4) solely with respect to age and familial status to  
20 the restriction of the sale, rental or lease of housing accommodations  
21 exclusively to persons sixty-two years of age or older and the spouse of  
22 any such person, or for housing intended and operated for occupancy by  
23 at least one person fifty-five years of age or older per unit. In deter-  
24 mining whether housing is intended and operated for occupancy by persons  
25 fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607  
26 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall  
27 apply. However, such rental property shall no longer be exempt from the  
28 provisions of subparagraphs one and two of this paragraph if there is  
29 unlawful discriminatory conduct pursuant to subparagraph three of this  
30 paragraph.

31 (ii) The provisions of subparagraphs one, two, and three of this para-  
32 graph shall not apply (1) to the restriction of the rental of all rooms  
33 in a housing accommodation to individuals of the same sex, (2) to the  
34 rental of a room or rooms in a housing accommodation, if such rental is  
35 by the occupant of the housing accommodation or by the owner of the  
36 housing accommodation and the owner resides in such housing accommo-  
37 dation, or (3) solely with respect to age and familial status to the  
38 restriction of the sale, rental or lease of housing accommodations  
39 exclusively to persons sixty-two years of age or older and the spouse of  
40 any such person, or for housing intended and operated for occupancy by  
41 at least one person fifty-five years of age or older per unit. In deter-  
42 mining whether housing is intended and operated for occupancy by persons  
43 fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607  
44 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall  
45 apply.

46 § 5. Severability. If any provision of this act, or any application of  
47 any provision of this act, is held to be invalid, that shall not affect  
48 the validity or effectiveness of any other provision of this act, or of  
49 any other application of any provision of this act, which can be given  
50 effect without that provision or application; and to that end, the  
51 provisions and applications of this act are severable.

52 § 6. This act shall take effect on the one hundred eightieth day after  
53 it shall have become a law.