

STATE OF NEW YORK

2440

2023-2024 Regular Sessions

IN SENATE

January 20, 2023

Introduced by Sen. HOYLMAN-SIGAL -- 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 discrimination on the basis of a person's height or weight in opportunities of employment, housing, and access to public accommodations

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

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

4 (a) For an employer or licensing agency, because of an individual's
5 age, race, creed, color, national origin, citizenship or immigration
6 status, sexual orientation, gender identity or expression, military
7 status, sex, height, weight, disability, predisposing genetic character-
8 istics, familial status, marital status, or status as a victim of domes-
9 tic violence, to refuse to hire or employ or to bar or to discharge from
10 employment such individual or to discriminate against such individual in
11 compensation or in terms, conditions or privileges of employment.

12 (b) For an employment agency to discriminate against any individual
13 because of age, race, creed, color, national origin, citizenship or
14 immigration status, sexual orientation, gender identity or expression,
15 military status, sex, height, weight, disability, predisposing genetic
16 characteristics, familial status, marital status, or status as a victim
17 of domestic violence, in receiving, classifying, disposing or otherwise
18 acting upon applications for its services or in referring an applicant
19 or applicants to an employer or employers.

20 (c) For a labor organization, because of the age, race, creed, color,
21 national origin, citizenship or immigration status, sexual orientation,
22 gender identity or expression, military status, sex, height, weight,
23 disability, predisposing genetic characteristics, familial status, mari-
24 tal status, or status as a victim of domestic violence, of any individ-
25 ual, to exclude or to expel from its membership such individual or to

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

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1 discriminate in any way against any of its members or against any
2 employer or any individual employed by an employer.

3 (d) For any employer or employment agency to print or circulate or
4 cause to be printed or circulated any statement, advertisement or publi-
5 cation, or to use any form of application for employment or to make any
6 inquiry in connection with prospective employment, which expresses
7 directly or indirectly, any limitation, specification or discrimination
8 as to age, race, creed, color, national origin, citizenship or immi-
9 gration status, sexual orientation, gender identity or expression, mili-
10 tary status, sex, height, weight, disability, predisposing genetic char-
11 acteristics, familial status, marital status, or status as a victim of
12 domestic violence, or any intent to make any such limitation, specifica-
13 tion or discrimination, unless based upon a bona fide occupational qual-
14 ification; provided, however, that neither this paragraph nor any
15 provision of this chapter or other law shall be construed to prohibit
16 the department of civil service or the department of personnel of any
17 city containing more than one county from requesting information from
18 applicants for civil service examinations concerning any of the afore-
19 mentioned characteristics, other than sexual orientation, for the
20 purpose of conducting studies to identify and resolve possible problems
21 in recruitment and testing of members of minority groups to ensure the
22 fairest possible and equal opportunities for employment in the civil
23 service for all persons, regardless of age, race, creed, color, national
24 origin, citizenship or immigration status, sexual orientation or gender
25 identity or expression, military status, sex, height, weight, disabili-
26 ty, predisposing genetic characteristics, familial status, or marital
27 status.

28 (h) For an employer, licensing agency, employment agency or labor
29 organization to subject any individual to harassment because of an indi-
30 vidual's age, race, creed, color, national origin, citizenship or immi-
31 gration status, sexual orientation, gender identity or expression, mili-
32 tary status, sex, height, weight, disability, predisposing genetic
33 characteristics, familial status, marital status, status as a victim of
34 domestic violence, or because the individual has opposed any practices
35 forbidden under this article or because the individual has filed a
36 complaint, testified or assisted in any proceeding under this article,
37 regardless of whether such harassment would be considered severe or
38 pervasive under precedent applied to harassment claims. Such harassment
39 is an unlawful discriminatory practice when it subjects an individual to
40 inferior terms, conditions or privileges of employment because of the
41 individual's membership in one or more of these protected categories.
42 The fact that such individual did not make a complaint about the harass-
43 ment to such employer, licensing agency, employment agency or labor
44 organization shall not be determinative of whether such employer,
45 licensing agency, employment agency or labor organization shall be
46 liable. Nothing in this section shall imply that an employee must demon-
47 strate the existence of an individual to whom the employee's treatment
48 must be compared. It shall be an affirmative defense to liability under
49 this subdivision that the harassing conduct does not rise above the
50 level of what a reasonable victim of discrimination with the same
51 protected characteristic or characteristics would consider petty slights
52 or trivial inconveniences.

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

(b) To deny to or withhold from any person because of race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, height, weight, age, disability, familial status, marital status, or status as a victim of domestic violence, the right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, executive training program, or other occupational training or retraining program;

(c) To discriminate against any person in his or her pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs because of race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, height, weight, age, disability, familial status, marital status, or status as a victim of domestic violence;

(d) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, height, weight, age, disability, familial status, marital status, or status as a victim of domestic violence, or any intention to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

§ 3. Paragraphs (a) and (b) of subdivision 2 of section 296 of the executive law, paragraph (a) as separately amended by chapters 202 and 748 of the laws of 2022 and paragraph (b) as amended by chapter 166 of the laws of 2000, are 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, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, height, weight, disability, marital status, or status as a victim of domestic violence, 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 origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, height, weight, disability or marital status, or that the patronage or custom thereat of any person of or purporting to be of any particular race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex or marital status, or having a disability is unwelcome, objectionable or not acceptable, desired or solicited.

(b) Nothing in this subdivision shall be construed to prevent the barring of any person, because of the sex of such person, from places of public accommodation, resort or amusement if the division grants an exemption based on bona fide considerations of public policy; nor shall this subdivision apply to the rental of rooms in a housing accommodation

1 which restricts such rental to individuals of one sex. Nothing in this
2 subdivision shall be construed to prevent the barring of any person,
3 because of height or weight of such person, from places of amusement for
4 purposes of compliance with any established state, federal, or amusement
5 industry safety standard.

6 § 4. Paragraphs (a), (b), (c) and (c-1) of subdivision 2-a of section
7 296 of the executive law, as separately amended by chapters 202 and 748
8 of the laws of 2022, are amended to read as follows:

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

18 (b) To discriminate against any person because of his or her race,
19 creed, color, disability, national origin, citizenship or immigration
20 status, sexual orientation, gender identity or expression, military
21 status, age, sex, height, weight, marital status, status as a victim of
22 domestic violence, lawful source of income or familial status in the
23 terms, conditions or privileges of any publicly-assisted housing accom-
24 modations or in the furnishing of facilities or services in connection
25 therewith.

26 (c) To cause to be made any written or oral inquiry or record concern-
27 ing the race, creed, color, disability, national origin, citizenship or
28 immigration status, sexual orientation, gender identity or expression,
29 membership in the reserve armed forces of the United States or in the
30 organized militia of the state, age, sex, height, weight, marital
31 status, status as a victim of domestic violence, lawful source of income
32 or familial status of a person seeking to rent or lease any publicly-as-
33 sisted housing accommodation; provided, however, that nothing in this
34 subdivision shall prohibit a member of the reserve armed forces of the
35 United States or in the organized militia of the state from voluntarily
36 disclosing such membership.

37 (c-1) To print or circulate or cause to be printed or circulated any
38 statement, advertisement or publication, or to use any form of applica-
39 tion for the purchase, rental or lease of such housing accommodation or
40 to make any record or inquiry in connection with the prospective
41 purchase, rental or lease of such a housing accommodation which
42 expresses, directly or indirectly, any limitation, specification or
43 discrimination as to race, creed, color, national origin, citizenship or
44 immigration status, sexual orientation, gender identity or expression,
45 military status, sex, height, weight, age, disability, marital status,
46 status as a victim of domestic violence, lawful source of income or
47 familial status, or any intent to make any such limitation, specifica-
48 tion or discrimination.

49 § 5. Subdivisions 3-b, 4 and 13 of section 296 of the executive law,
50 as separately amended by chapters 202 and 748 of the laws of 2022, are
51 amended to read as follows:

52 3-b. It shall be an unlawful discriminatory practice for any real
53 estate broker, real estate salesperson or employee or agent thereof or
54 any other individual, corporation, partnership or organization for the
55 purpose of inducing a real estate transaction from which any such person
56 or any of its stockholders or members may benefit financially, to repre-

1 sent that a change has occurred or will or may occur in the composition
2 with respect to race, creed, color, national origin, citizenship or
3 immigration status, sexual orientation, gender identity or expression,
4 military status, sex, height, weight, disability, marital status, status
5 as a victim of domestic violence, or familial status of the owners or
6 occupants in the block, neighborhood or area in which the real property
7 is located, and to represent, directly or indirectly, that this change
8 will or may result in undesirable consequences in the block, neighbor-
9 hood or area in which the real property is located, including but not
10 limited to the lowering of property values, an increase in criminal or
11 anti-social behavior, or a decline in the quality of schools or other
12 facilities.

13 4. It shall be an unlawful discriminatory practice for an educational
14 institution to deny the use of its facilities to any person otherwise
15 qualified, or to permit the harassment of any student or applicant, by
16 reason of his race, color, religion, disability, national origin, citi-
17 zenship or immigration status, sexual orientation, gender identity or
18 expression, military status, sex, height, weight, age, marital status,
19 or status as a victim of domestic violence, except that any such insti-
20 tution which establishes or maintains a policy of educating persons of
21 one sex exclusively may admit students of only one sex.

22 13. It shall be an unlawful discriminatory practice (i) for any person
23 to boycott or blacklist, or to refuse to buy from, sell to or trade
24 with, or otherwise discriminate against any person, because of the race,
25 creed, color, national origin, citizenship or immigration status, sexual
26 orientation, gender identity or expression, military status, sex,
27 height, weight, status as a victim of domestic violence, disability, or
28 familial status, or of such person, or of such person's partners,
29 members, stockholders, directors, officers, managers, superintendents,
30 agents, employees, business associates, suppliers or customers, or (ii)
31 for any person wilfully to do any act or refrain from doing any act
32 which enables any such person to take such action. This subdivision
33 shall not apply to:

34 (a) Boycotts connected with labor disputes; or

35 (b) Boycotts to protest unlawful discriminatory practices.

36 § 6. Paragraphs (a), (b), (c) and (d) of subdivision 5 of section 296
37 of the executive law, as separately amended by chapters 202 and 748 of
38 the laws of 2022, are amended to read as follows:

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

43 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold
44 from any person or group of persons such a housing accommodation because
45 of the race, creed, color, national origin, citizenship or immigration
46 status, sexual orientation, gender identity or expression, military
47 status, sex, height, weight, age, disability, marital status, status as
48 a victim of domestic violence, lawful source of income or familial
49 status of such person or persons, or to represent that any housing
50 accommodation or land is not available for inspection, sale, rental or
51 lease when in fact it is so available.

52 (2) To discriminate against any person because of race, creed, color,
53 national origin, citizenship or immigration status, sexual orientation,
54 gender identity or expression, military status, sex, height, weight,
55 age, disability, marital status, status as a victim of domestic
56 violence, lawful source of income or familial status in the terms,

1 conditions or privileges of the sale, rental or lease of any such hous-
2 ing accommodation or in the furnishing of facilities or services in
3 connection therewith.

4 (3) To print or circulate or cause to be printed or circulated any
5 statement, advertisement or publication, or to use any form of applica-
6 tion for the purchase, rental or lease of such housing accommodation or
7 to make any record or inquiry in connection with the prospective
8 purchase, rental or lease of such a housing accommodation which
9 expresses, directly or indirectly, any limitation, specification or
10 discrimination as to race, creed, color, national origin, citizenship or
11 immigration status, sexual orientation, gender identity or expression,
12 military status, sex, height, weight, age, disability, marital status,
13 status as a victim of domestic violence, lawful source of income or
14 familial status, or any intent to make any such limitation, specifica-
15 tion or discrimination.

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

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

52 (b) It shall be an unlawful discriminatory practice for the owner,
53 lessee, sub-lessee, or managing agent of, or other person having the
54 right of ownership or possession of or the right to sell, rent or lease,
55 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, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, height, weight, age, disability, marital status, status as a victim of domestic violence, or familial status 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, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, height, weight, age, disability, marital status, status as a victim of domestic violence, or familial status 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, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, height, weight, age, disability, marital status, status as a victim of domestic violence, or familial status; or any intent to make any such limitation, specification or discrimination.

(4) 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 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 land to be used for the construction, or location of housing accommodations exclusively 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.

(c) It shall be an unlawful discriminatory practice for any real 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, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, height, weight, age, disability, marital status, status as a victim of domestic violence, lawful source of income or familial status 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, citizenship or immigration status, sexual orientation,

1 gender identity or expression, military status, sex, height, weight,
2 age, disability, marital status, lawful source of income or familial
3 status of such person or persons.

4 (2) To print or circulate or cause to be printed or circulated any
5 statement, advertisement or publication, or to use any form of applica-
6 tion for the purchase, rental or lease of any housing accommodation,
7 land or commercial space or to make any record or inquiry in connection
8 with the prospective purchase, rental or lease of any housing accommo-
9 dation, land or commercial space which expresses, directly or indirect-
10 ly, any limitation, specification, or discrimination as to race, creed,
11 color, national origin, citizenship or immigration status, sexual orien-
12 tation, gender identity or expression, military status, sex, height,
13 weight, age, disability, marital status, status as a victim of domestic
14 violence, lawful source of income or familial status; or any intent to
15 make any such limitation, specification or discrimination.

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

28 (d) It shall be an unlawful discriminatory practice for any real
29 estate board, because of the race, creed, color, national origin, citi-
30 zenship or immigration status, sexual orientation, gender identity or
31 expression, military status, age, sex, height, weight, disability, mari-
32 tal status, status as a victim of domestic violence, lawful source of
33 income or familial status of any individual who is otherwise qualified
34 for membership, to exclude or expel such individual from membership, or
35 to discriminate against such individual in the terms, conditions and
36 privileges of membership in such board.

37 § 7. Subdivisions 1, 2 and 3 of section 296-a of the executive law, as
38 separately amended by chapters 202 and 748 of the laws of 2022, are
39 amended to read as follows:

40 1. It shall be an unlawful discriminatory practice for any creditor or
41 any officer, agent or employee thereof:

42 a. In the case of applications for credit with respect to the
43 purchase, acquisition, construction, rehabilitation, repair or mainte-
44 nance of any housing accommodation, land or commercial space to discrim-
45 inate against any such applicant because of the race, creed, color,
46 national origin, citizenship or immigration status, sexual orientation,
47 gender identity or expression, military status, age, sex, height,
48 weight, marital status, status as a victim of domestic violence, disa-
49 bility, or familial status of such applicant or applicants or any
50 member, stockholder, director, officer or employee of such applicant or
51 applicants, or of the prospective occupants or tenants of such housing
52 accommodation, land or commercial space, in the granting, withholding,
53 extending or renewing, or in the fixing of the rates, terms or condi-
54 tions of, any such credit;

55 b. To discriminate in the granting, withholding, extending or renew-
56 ing, or in the fixing of the rates, terms or conditions of, any form of

1 credit, on the basis of race, creed, color, national origin, citizenship
2 or immigration status, sexual orientation, gender identity or
3 expression, military status, age, sex, height, weight, marital status,
4 status as a victim of domestic violence, disability, or familial status;

5 c. To use any form of application for credit or use or make any record
6 or inquiry which expresses, directly or indirectly, any limitation,
7 specification, or discrimination as to race, creed, color, national
8 origin, citizenship or immigration status, sexual orientation, gender
9 identity or expression, military status, age, sex, height, weight, mari-
10 tal status, status as a victim of domestic violence, disability, or
11 familial status;

12 d. To make any inquiry of an applicant concerning his or her capacity
13 to reproduce, or his or her use or advocacy of any form of birth control
14 or family planning;

15 e. To refuse to consider sources of an applicant's income or to
16 subject an applicant's income to discounting, in whole or in part,
17 because of an applicant's race, creed, color, national origin, citizen-
18 ship or immigration status, sexual orientation, gender identity or
19 expression, military status, age, sex, height, weight, marital status,
20 status as a victim of domestic violence, childbearing potential, disa-
21 bility, or familial status;

22 f. To discriminate against a married person because such person
23 neither uses nor is known by the surname of his or her spouse.

24 This paragraph shall not apply to any situation where the use of a
25 surname would constitute or result in a criminal act.

26 2. Without limiting the generality of subdivision one of this section,
27 it shall be considered discriminatory if, because of an applicant's or
28 class of applicants' race, creed, color, national origin, citizenship or
29 immigration status, sexual orientation, gender identity or expression,
30 military status, age, sex, height, weight, marital status, status as a
31 victim of domestic violence, disability, or familial status, (i) an
32 applicant or class of applicants is denied credit in circumstances where
33 other applicants of like overall credit worthiness are granted credit,
34 or (ii) special requirements or conditions, such as requiring co-obli-
35 gors or reapplication upon marriage, are imposed upon an applicant or
36 class of applicants in circumstances where similar requirements or
37 conditions are not imposed upon other applicants of like overall credit
38 worthiness.

39 3. It shall not be considered discriminatory if credit differen-
40 tiations or decisions are based upon factually supportable, objective
41 differences in applicants' overall credit worthiness, which may include
42 reference to such factors as current income, assets and prior credit
43 history of such applicants, as well as reference to any other relevant
44 factually supportable data; provided, however, that no creditor shall
45 consider, in evaluating the credit worthiness of an applicant, aggregate
46 statistics or assumptions relating to race, creed, color, national
47 origin, citizenship or immigration status, sexual orientation, gender
48 identity or expression, military status, sex, height, weight, marital
49 status, status as a victim of domestic violence or disability, or to the
50 likelihood of any group of persons bearing or rearing children, or for
51 that reason receiving diminished or interrupted income in the future.

52 § 8. Paragraphs a, b and c of subdivision 2 and paragraph b of subdi-
53 vision 3 of section 296-c of the executive law, as separately amended by
54 chapters 202 and 748 of the laws of 2022, are amended to read as
55 follows:

1 a. refuse to hire or employ or to bar or to discharge from internship
2 an intern or to discriminate against such intern in terms, conditions or
3 privileges of employment as an intern because of the intern's age, race,
4 creed, color, national origin, citizenship or immigration status, sexual
5 orientation, military status, sex, height, weight, disability, predis-
6 posing genetic characteristics, marital status, or status as a victim of
7 domestic violence;

8 b. discriminate against an intern in receiving, classifying, disposing
9 or otherwise acting upon applications for internships because of the
10 intern's age, race, creed, color, national origin, citizenship or immi-
11 gration status, sexual orientation, military status, sex, height,
12 weight, disability, predisposing genetic characteristics, marital
13 status, or status as a victim of domestic violence;

14 c. print or circulate or cause to be printed or circulated any state-
15 ment, advertisement or publication, or to use any form of application
16 for employment as an intern or to make any inquiry in connection with
17 prospective employment, which expresses directly or indirectly, any
18 limitation, specification or discrimination as to age, race, creed,
19 color, national origin, citizenship or immigration status, sexual orien-
20 tation, military status, sex, height, weight, disability, predisposing
21 genetic characteristics, marital status or status as a victim of domes-
22 tic violence, or any intent to make any such limitation, specification
23 or discrimination, unless based upon a bona fide occupational qualifica-
24 tion; provided, however, that neither this paragraph nor any provision
25 of this chapter or other law shall be construed to prohibit the depart-
26 ment of civil service or the department of personnel of any city
27 containing more than one county from requesting information from appli-
28 cants for civil service internships or examinations concerning any of
29 the aforementioned characteristics, other than sexual orientation, for
30 the purpose of conducting studies to identify and resolve possible prob-
31 lems in recruitment and testing of members of minority groups to ensure
32 the fairest possible and equal opportunities for employment in the civil
33 service for all persons, regardless of age, race, creed, color, national
34 origin, citizenship or immigration status, sexual orientation, military
35 status, sex, height, weight, disability, predisposing genetic character-
36 istics, marital status or status as a victim of domestic violence;

37 b. subject an intern to unwelcome harassment based on age, sex,
38 height, weight, race, creed, color, sexual orientation, military status,
39 disability, predisposing genetic characteristics, marital status, status
40 as a victim of domestic violence, national origin, or citizenship or
41 immigration status, or where such harassment has the purpose or effect
42 of unreasonably interfering with the intern's work performance by creat-
43 ing an intimidating, hostile, or offensive working environment.

44 § 9. This act shall not annul, alter, affect or exempt any employer
45 subject to the provisions of this act from complying with the laws,
46 ordinances, rules or regulations of any locality, except to the extent
47 that such laws, ordinances, rules or regulations are inconsistent with
48 any provision of this act, but no such law, ordinance, rule or regu-
49 lation shall be considered inconsistent if it affords equal or greater
50 protection to the employee.

51 § 10. This act shall take effect on the one hundred eightieth day
52 after it shall have become a law. Effective immediately, the addition,
53 amendment and/or repeal of any rule or regulation necessary for the
54 implementation of this act on its effective date are authorized to be
55 made and completed on or before such effective date.