

STATE OF NEW YORK

1695

2025-2026 Regular Sessions

IN ASSEMBLY

January 14, 2025

Introduced by M. of A. ROSENTHAL -- read once and referred to the
Committee on Governmental Operations

AN ACT to amend the executive law, in relation to the awarding of punitive damages to persons aggrieved by sexual harassment

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

1 Section 1. Paragraph c of subdivision 4 and subdivision 9 of section
2 297 of the executive law, paragraph c of subdivision 4 as amended by
3 chapter 160 of the laws of 2019 and subdivision 9 as amended by chapter
4 140 of the laws of 2022, are amended to read as follows:
5 c. Within one hundred eighty days after the commencement of such hear-
6 ing, a determination shall be made and an order served as hereinafter
7 provided. If, upon all the evidence at the hearing, the commissioner
8 shall find that a respondent has engaged in any unlawful discriminatory
9 practice as defined in this article, the commissioner shall state find-
10 ings of fact and shall issue and cause to be served on such respondent
11 an order, based on such findings and setting them forth, and including
12 such of the following provisions as in the judgment of the division will
13 effectuate the purposes of this article: (i) requiring such respondent
14 to cease and desist from such unlawful discriminatory practice; (ii)
15 requiring such respondent to take such affirmative action, including
16 (but not limited to) hiring, reinstatement or upgrading of employees,
17 with or without back pay, restoration to membership in any respondent
18 labor organization, admission to or participation in a guidance program,
19 apprenticeship training program, on-the-job training program or other
20 occupational training or retraining program, the extension of full,
21 equal and unsegregated accommodations, advantages, facilities and privi-
22 leges to all persons, granting the credit which was the subject of any
23 complaint, evaluating applicants for membership in a place of accommo-
24 dation without discrimination based on race, creed, color, national
25 origin, sex, disability or marital status, and without retaliation or

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

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1 discrimination based on opposition to practices forbidden by this arti-
2 cle or filing a complaint, testifying or assisting in any proceeding
3 under this article; (iii) awarding of compensatory damages to the person
4 aggrieved by such practice; (iv) awarding of punitive damages, in cases
5 of employment discrimination related to private employers, and, in cases
6 of housing discrimination, with damages in housing discrimination cases
7 in an amount not to exceed ten thousand dollars, to the person aggrieved
8 by such practice; (v) requiring payment to the state of profits obtained
9 by a respondent through the commission of unlawful discriminatory acts
10 described in subdivision three-b of section two hundred ninety-six of
11 this article; [~~and~~] (vi) assessing civil fines and penalties, in an
12 amount not to exceed fifty thousand dollars, to be paid to the state by
13 a respondent found to have committed an unlawful discriminatory act, or
14 not to exceed one hundred thousand dollars to be paid to the state by a
15 respondent found to have committed an unlawful discriminatory act which
16 is found to be willful, wanton or malicious; (vii) requiring a report of
17 the manner of compliance; and (viii) awarding of punitive damages, in
18 cases of sexual harassment only, to the person aggrieved by such prac-
19 tice. If, upon all the evidence, the commissioner shall find that a
20 respondent has not engaged in any such unlawful discriminatory practice,
21 [~~he or she~~] and shall state findings of fact and shall issue and cause
22 to be served on the complainant an order based on such findings and
23 setting them forth dismissing the said complaint as to such respondent.
24 A copy of each order issued by the commissioner shall be delivered in
25 all cases to the attorney general, the secretary of state, if [~~he or~~
26 ~~she~~] such commissioner has issued a license to the respondent, and such
27 other public officers as the division deems proper, and if any such
28 order issued by the commissioner concerns a regulated creditor, the
29 commissioner shall forward a copy of any such order to the superinten-
30 dent. A copy of any complaint filed against any respondent who has
31 previously entered into a conciliation agreement pursuant to paragraph a
32 of subdivision three of this section or as to whom an order of the divi-
33 sion has previously been entered pursuant to this paragraph shall be
34 delivered to the attorney general, to the secretary of state if [~~he or~~
35 ~~she has issued~~] a license has been issued to the respondent and to such
36 other public officers as the division deems proper, and if any such
37 respondent is a regulated creditor, the commissioner shall forward a
38 copy of any such complaint to the superintendent.

39 9. Any person claiming to be aggrieved by an unlawful discriminatory
40 practice shall have a cause of action in any court of appropriate juris-
41 diction for damages, including, in cases of employment discrimination
42 related to private employers and housing discrimination and sexual
43 harassment only, punitive damages, and such other remedies as may be
44 appropriate, including any civil fines and penalties provided in subdivi-
45 sion four of this section, unless such person had filed a complaint
46 hereunder or with any local commission on human rights, or with the
47 superintendent pursuant to the provisions of section two hundred nine-
48 ty-six-a of this article, provided that, where the division has
49 dismissed such complaint on the grounds of administrative convenience,
50 on the grounds of untimeliness, or on the grounds that the election of
51 remedies is annulled, such person shall maintain all rights to bring
52 suit as if no complaint had been filed with the division. At any time
53 prior to a hearing before a hearing examiner, a person who has a
54 complaint pending at the division may request that the division dismiss
55 the complaint and annul [~~his or her~~] their election of remedies so that
56 the human rights law claim may be pursued in court, and the division

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

39 § 2. This act shall take effect on the ninetieth day after it shall
40 have become a law.