

# STATE OF NEW YORK

4067--A

2025-2026 Regular Sessions

## IN SENATE

January 31, 2025

Introduced by Sens. KAVANAGH, MYRIE, CLEARE, BAILEY, BASKIN, BRISPORT, BROUK, COMRIE, COONEY, FAHY, FERNANDEZ, GIANARIS, GONZALEZ, GOUNARDES, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, KRUEGER, LIU, MAY, MAYER, RAMOS, RIVERA, SALAZAR, SANDERS, SEPULVEDA, WEBB -- 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 codifying the disparate impact standard in the human rights law

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

1 Section 1. Section 296 of the executive law is amended by adding a new  
2 subdivision 5-a to read as follows:

3 5-a. (a) For any case alleging housing discrimination under this arti-  
4 cle, an unlawful discriminatory practice may be established by a prac-  
5 tice's discriminatory effect, even if such practice was not motivated by  
6 a discriminatory intent. The practice may still be lawful if supported  
7 by a legally sufficient justification, as defined in paragraph (c) of  
8 this subdivision.

9 (b) For the purposes of this subdivision, a practice has a discrimina-  
10 tory effect where it actually or predictably results in a disparate  
11 impact on a group of persons or creates, increases, reinforces, or  
12 perpetuates segregated housing patterns because of race, creed, color,  
13 national origin, citizenship or immigration status, sexual orientation,  
14 gender identity or expression, military status, sex, age, disability,  
15 marital status, status as a victim of domestic violence, lawful source  
16 of income or familial.

17 (c) (1) A legally sufficient justification exists where the challenged  
18 practice:

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

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1 (i) is necessary to achieve one or more substantial, legitimate,  
2 nondiscriminatory interests of the respondent; and

3 (ii) those interests could not be served by another practice that has  
4 a less discriminatory effect.

5 (2) A legally sufficient justification shall be supported by evidence  
6 and may not be hypothetical or speculative. The burdens of proof for  
7 establishing each of the two elements of a legally sufficient justifica-  
8 tion are set forth in paragraph (d) of this subdivision.

9 (d) (1) The complainant shall have the burden of proving that a chal-  
10 lenged practice caused or predictably will cause a discriminatory  
11 effect.

12 (2) Once the complainant satisfies the burden of proof set forth in  
13 subparagraph one of this paragraph, the respondent shall have the burden  
14 of proving that the challenged practice is necessary to achieve one or  
15 more substantial, legitimate, nondiscriminatory interests of the  
16 respondent.

17 (3) If the respondent satisfies the burden of proof set forth in  
18 subparagraph two of this paragraph, the complainant may still prevail  
19 upon proving that the substantial, legitimate, nondiscriminatory inter-  
20 ests supporting the challenged practice could be served by another prac-  
21 tice that has a less discriminatory effect.

22 (e) A demonstration that a practice is supported by a legally suffi-  
23 cient justification, as defined in paragraph (c) of this subdivision,  
24 may not be used as a defense against a claim of intentional discrimi-  
25 nation.

26 (f) Nothing in this subdivision shall be construed or interpreted as  
27 limiting, restricting, overriding, or supplanting any broader interpre-  
28 tation of the discriminatory practices described in this article or the  
29 availability of liability under this article.

30 § 2. This act shall take effect immediately and shall apply to all  
31 cases alleging unlawful discriminatory practices constituting housing  
32 discrimination occurring on and after such effective date. Effective  
33 immediately, the addition, amendment and/or repeal of any rule or regu-  
34 lation necessary for the implementation of this act on its effective  
35 date are authorized to be made on or before such effective date.