

# STATE OF NEW YORK

152

2025-2026 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 8, 2025

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

AN ACT to amend the civil rights law, in relation to enacting the New  
York religious land use and religious exercise act

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

1 Section 1. This act shall be known and may be cited as the "New York  
2 religious land use and religious exercise act".

3 § 2. Article 10 and sections 100 and 101 of the civil rights law, as  
4 renumbered by chapter 263 of the laws of 2019, are renumbered article 15  
5 and sections 150 and 151, respectively.

6 § 3. The civil rights law is amended by adding a new article 10 to  
7 read as follows:

### ARTICLE 10

#### RELIGIOUS LAND USE AND RELIGIOUS EXERCISE

##### Section 100. Definitions.

11 101. Restriction on regulations affecting religious land use.

12 102. Restriction on regulations affecting religious exercise of  
13 institutionalized persons.

14 103. Government discretion in alleviating burdens on religious  
15 exercise.

16 104. Judicial relief.

17 105. Rules of construction.

18 106. Broad construction.

19 107. Severability.

##### § 100. Definitions. As used in this article:

21 1. "Claimant" means a person raising a claim or defense under this  
22 article.

23 2. "Demonstrates" means meets the burdens of going forward with the  
24 evidence and of persuasion.

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

LBD00542-01-5

1 3. "Free exercise clause" means that portion of the first amendment to  
2 the Constitution that proscribes laws prohibiting the free exercise of  
3 religion.

4 4. "Government" means:

5 (a) the state;

6 (b) the governing board of a municipal corporation as such terms are  
7 defined in section two of the general municipal law;

8 (c) any other governmental entity created under the authority of the  
9 state or a municipal corporation, including but not limited to any  
10 branch, department, agency or instrumentality; or

11 (d) any other person acting under color of state law.

12 5. "Institution" means an institution, as defined in section 2 of the  
13 Civil Rights of Institutionalized Persons Act (42 U.S.C. § 1997).

14 6. "Land use regulation" means a zoning or landmarking law, or the  
15 application of such a law, that limits or restricts a claimant's use or  
16 development of land (including a structure affixed to land), if the  
17 claimant has an ownership, leasehold, easement, servitude, or other  
18 property interest in the regulated land or a contract or option to  
19 acquire such an interest.

20 7. "Native American tribe" means those tribes, bands or other organ-  
21 ized groups of Indians recognized in the state or considered by the  
22 federal secretary of the interior to be a Native American or Indian  
23 tribe or a Native American or Indian organization for any purpose.

24 8. "Person" means any natural person, partnership, corporation, compa-  
25 ny, trust, association or other entity, however organized.

26 9. "Program or activity" means all of the operations of any entity as  
27 described in paragraph (1) or (2) of section 606 of the Civil Rights Act  
28 of 1964 (42 U.S.C. § 2000d-4a).

29 10. "Religious exercise" includes any exercise of religion, whether or  
30 not compelled by, or central to, a system of religious belief. The use,  
31 building, or conversion of real property for the purpose of religious  
32 exercise shall be considered to be religious exercise of the person or  
33 entity that uses or intends to use the property for that purpose.

34 § 101. Restriction on regulations affecting religious land use. 1.  
35 Substantial burdens.

36 (a) A government shall not impose or implement a land use regulation  
37 in a manner that imposes a substantial burden on the religious exercise  
38 of a person, including a religious assembly or institution, unless the  
39 government demonstrates that imposition of the burden on that person,  
40 assembly, or institution:

41 (1) is in furtherance of a compelling interest of the government; and

42 (2) is the least restrictive means of furthering such compelling  
43 interest.

44 (b) The provisions of this subdivision shall apply in any case in  
45 which:

46 (1) the substantial burden is imposed in a program or activity that  
47 receives government or federal financial assistance, even if the burden  
48 results from a rule of general applicability; or

49 (2) the substantial burden affects, or the removal of that substantial  
50 burden would affect, commerce with foreign nations, with another state  
51 or municipal corporation, or with Native American tribes, even if the  
52 burden results from a rule of general applicability; or

53 (3) the substantial burden is imposed in the implementation of a land  
54 use regulation or system of land use regulations, under which a govern-  
55 ment makes, or has in place, formal or informal procedures or practices

1 that permit the government to make, individualized assessments of the  
2 proposed uses for the property involved.

3 2. Discrimination and exclusion. A government shall not impose or  
4 implement a land use regulation:

5 (a) in a manner that treats a religious assembly or institution on  
6 less than equal terms with a nonreligious assembly or institution;

7 (b) that discriminates against any assembly or institution on the  
8 basis of religion or religious denomination; or

9 (c) that totally excludes religious assemblies from a jurisdiction or  
10 unreasonably limits religious assemblies, institutions, or structures  
11 within a jurisdiction.

12 3. Definition. As used in this section, "substantial burden" may  
13 include:

14 (a) being prohibited from using a property for religious exercise  
15 where the use is otherwise permitted by right or special exception;

16 (b) an actual and substantial financial burden in proceeding with a  
17 land use project which is not attributable to a factor or factors other  
18 than the land use regulation at issue; or

19 (c) an actual and substantial delay in proceeding with a land use  
20 project which is not attributable to a factor or factors other than the  
21 land use regulation at issue.

22 § 102. Restriction on regulations affecting religious exercise of  
23 institutionalized persons. 1. A government shall not impose a substan-  
24 tial burden on the religious exercise of a person residing in or  
25 confined to an institution as defined in section one hundred of this  
26 article, even if the burden results from a rule of general applicabil-  
27 ity, unless the government demonstrates that imposition of the burden on  
28 that person:

29 (a) is in furtherance of a compelling interest of the government; and  
30 (b) is the least restrictive means of furthering such compelling  
31 interest.

32 2. The provisions of this section shall apply in any case in which:  
33 (a) the substantial burden is imposed in a program or activity that  
34 receives government assistance;

35 (b) the substantial burden affects, or the removal of that substantial  
36 burden would affect, commerce with foreign nations, with another state  
37 or municipal corporation, or with Native American tribes.

38 § 103. Government discretion in alleviating burdens on religious exer-  
39 cise. A government may avoid the preemptive force of any provision of  
40 this chapter by changing the policy or practice that results in a  
41 substantial burden on religious exercise, by retaining the policy or  
42 practice and exempting the substantially burdened religious exercise, by  
43 providing exemptions from the policy or practice for applications that  
44 substantially burden religious exercise, or by any other means that  
45 eliminates the substantial burden.

46 § 104. Judicial relief. 1. (a) A person may assert a violation of this  
47 article as a claim or defense in a judicial proceeding and obtain appro-  
48 priate relief against a government. Jurisdiction and standing to assert  
49 a claim or defense under this article shall be governed by the general  
50 rules of jurisdiction and standing under New York law.

51 (b) The attorney general may bring an action for injunctive or declar-  
52 atory relief to enforce compliance with this article. Nothing in this  
53 article shall be construed to deny, impair, or otherwise affect any  
54 right or authority of the attorney general or of any agency, officer, or  
55 employee of the state, acting under any law other than this article, to  
56 institute or intervene in any proceeding.

1 (c) An action may be brought as provided in paragraph (a) or (b) of  
2 this subdivision as soon as any final government action occurs.

3 2. If a plaintiff produces prima facie evidence to support a claim  
4 alleging a violation of this article, the government shall bear the  
5 burden of persuasion on any element of the claim, except that the plain-  
6 tiff shall bear the burden of persuasion on whether the law (including a  
7 regulation) or government practice that is challenged by the claim  
8 substantially burdens the plaintiff's exercise of religion.

9 3. The court, in its discretion and in an appropriate case, may award  
10 actual damages and reasonable attorney's fees to a prevailing claimant.

11 4. If the only jurisdictional basis for applying a provision of this  
12 article is a claim that a substantial burden by a government on reli-  
13 gious exercise affects, or that removal of that substantial burden would  
14 affect, commerce with foreign nations, another state or municipal corpo-  
15 ration, or with Native American tribes, the provision shall not apply if  
16 the government demonstrates that all substantial burdens on, or the  
17 removal of all substantial burdens from, similar religious exercise  
18 throughout the state would not lead in the aggregate to a substantial  
19 effect on commerce with foreign nations, another state, or with Native  
20 American tribes.

21 § 105. Rules of construction. Nothing in this article shall:

22 1. Be construed to authorize any government to burden any religious  
23 belief.

24 2. Create any basis for restricting or burdening religious exercise or  
25 for claims against a religious organization, including any religiously  
26 affiliated school or university, not acting under color of law.

27 3. Create or preclude a right of any religious organization to receive  
28 funding or other assistance from a government or the federal government,  
29 or of any person to receive government funding for a religious activity;  
30 provided, however, that a government may be required to incur expenses  
31 in its own operations to avoid imposing a substantial burden on reli-  
32 gious exercise.

33 4. Authorize a government to regulate or affect, directly or indirect-  
34 ly, the activities or policies of a person other than a government as a  
35 condition of receiving funding or other assistance, or restrict any  
36 authority that may exist under other law to so regulate or affect such  
37 activities or policies, except as provided in this article.

38 5. With respect to a claim brought under this chapter, be construed as  
39 proof that a substantial burden on a person's religious exercise  
40 affects, or removal of that burden would affect, commerce with foreign  
41 nations, another state, or with Native American tribes, shall not estab-  
42 lish any inference or presumption that the legislature intends that any  
43 religious exercise is, or is not, subject to any law other than this  
44 article.

45 6. Be construed to restrict, negate or otherwise weaken any  
46 protections afforded under the Religious Land Use and Institutionalized  
47 Persons Act of 2000 (RLUIPA), 42 U.S.C. §§ 2000cc, et seq.

48 7. Preempt any other state law that is equally as protective of reli-  
49 gious exercise as, or more protective of religious exercise than, this  
50 article.

51 § 106. Broad construction. This article shall be construed in favor of  
52 a broad protection of religious exercise, to the maximum extent permit-  
53 ted by the terms of this article, the Constitution of the state of New  
54 York and the Constitution of the United States.

55 § 107. Severability. If any clause, sentence, paragraph, section or  
56 part of this article shall be adjudged by any court of competent juris-

1 diction to be invalid and after exhaustion of all further judicial  
2 review, the judgment shall not affect, impair or invalidate the remain-  
3 der thereof, but shall be confined in its operation to the clause,  
4 sentence, paragraph, section or part of this article directly involved  
5 in the controversy in which the judgment shall have been rendered.

6 § 4. This act shall take effect immediately.