

STATE OF NEW YORK

4040

2025-2026 Regular Sessions

IN ASSEMBLY

January 30, 2025

Introduced by M. of A. LASHER, WRIGHT, P. CARROLL, EPSTEIN, GLICK, GONZALEZ-ROJAS, HEVESI, HOOKS, KELLES, LEVENBERG, O'PHARROW, REYES, SHIMSKY, TAPIA, TORRES, ZACCARO, ZINERMAN -- read once and referred to the Committee on Governmental Operations

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
4 section, an unlawful discriminatory practice may be established by a
5 practice's discriminatory effect, even if such practice was not moti-
6 vated by a discriminatory intent. The practice may still be lawful if
7 supported by a legally sufficient justification, as defined in paragraph
8 (c) of 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:

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

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

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

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

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

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

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

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

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