

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2016**

No. 38

Introduced by Council Members Williams, Cumbo, The Speaker (Council Member Mark-Viverito), Lander, Eugene, Gentile, Johnson, Mendez, Richards, Wills, Rosenthal, Rose and Kallos.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to prohibiting discrimination in housing accommodations on the basis of an individual's status as a victim of domestic violence.

Be it enacted by the Council as follows:

Section 1. Section 8-107.1 of the administrative code of the city of New York, as amended by local law number 75 for the year 2003, is amended to read as follows:

[1.]*a.* Definitions. Whenever used in this chapter the following terms [shall] have the following meanings:

[a.]“Acts or threats of violence” [shall include] *includes*, but *is* not [be] limited to, acts, which would constitute violations of the penal law.

[b.]“Victim of domestic violence” [shall] means a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.

[c.]“Victim of sex offenses or stalking” [shall mean] *means* a victim of acts which would constitute violations of article 130 of the penal law, or a victim of acts which would constitute violations of sections 120.45, 120.50, 120.55, or 120.60 of the penal law.

[d.]Practices “based on,” “because of,” “on account of,” “as to,” “on the basis of,” or “motivated by” an individual's “status as a victim of domestic violence,” or “status as a victim of sex offenses or stalking” include, but are not limited to, those based solely upon the actions of a person who has perpetrated acts or threats of violence against the individual.

[2.]*b.* Unlawful discriminatory practices. *1.* It shall be an unlawful discriminatory practice for an employer, or an agent thereof, to refuse to hire or employ or to bar or to discharge from employment, or to discriminate against an individual in compensation or other terms, conditions, or privileges of employment because of the actual or perceived status of said individual as a victim of domestic violence, or as a victim of sex offenses or stalking.

[3. Applicability; actual or perceived victims of domestic violence, sex offenses or stalking.]

(a) Requirement to make reasonable accommodation to the needs of victims of domestic violence, sex offenses or stalking. Except as provided in [paragraph] *subparagraph* (c), any person prohibited by [this section 8-107.1] *paragraph 1* from discriminating on the basis of actual or perceived status as a victim of domestic violence or a victim of sex offenses or stalking shall make reasonable accommodation to enable a person who is a victim of domestic violence, or a victim of sex offenses or stalking to satisfy the essential requisites of a job provided that the status as a victim of domestic violence or a victim of sex offenses or stalking is known or should have been known by the covered entity.

(b) Documentation of status. Any person required by [paragraph] *subparagraph* (a) to make reasonable accommodation may require a person requesting reasonable accommodation pursuant to [paragraph] *subparagraph* (a) to provide certification that the person is a victim of domestic violence, sex offenses or stalking. The person requesting reasonable accommodation pursuant to [paragraph] *subparagraph* (a) shall provide a copy of such certification to the covered entity within a reasonable period after the request is made. A person may satisfy the certification requirement of this paragraph by providing documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider, from whom the individual seeking a reasonable accommodation or that individual's family or household member has sought assistance in addressing domestic violence, sex offenses or stalking and the effects of the violence or stalking; a police or court record; or other corroborating evidence. All information provided to the covered entity pursuant to this paragraph, including a statement of the person requesting a reasonable accommodation or any other documentation, record, or corroborating evidence, and the fact that the individual has requested or obtained a reasonable accommodation pursuant to this section, shall be retained in the strictest confidence by the covered entity, except to the extent that disclosure is requested or consented to in writing by the person requesting the reasonable accommodation; or otherwise required by applicable federal, state or local law.

(c) Affirmative defense in domestic violence, sex offenses or stalking cases. In any case where the need for reasonable accommodation is placed in issue, it shall be an affirmative defense that the person aggrieved by the alleged discriminatory practice could not, with reasonable accommodation, satisfy the essential requisites of the job or enjoy the right or rights in question.

2. It shall be an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease or approve the sale, rental or lease of a housing accommodation, constructed or to be constructed, or an interest therein, or any agent or employee thereof, to refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny to or withhold from any person or group of persons such a housing accommodation or an interest therein, or to discriminate in the terms, conditions, or privileges of the sale, rental or lease of any such housing accommodation or an interest therein or in the furnishing of facilities or services in connection therewith because of an actual or perceived status of said individual as a victim of domestic violence, or as a victim of sex offenses or stalking.

(a) The provisions of this paragraph 2 shall not apply:

(1) to the rental of a housing accommodation, other than a publicly-assisted housing accommodation, in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or members of the owner's family reside in one of such housing accommodations, and if the available housing accommodation has not been publicly advertised, listed, or otherwise offered to the general public; or

(2) to the rental of a room or rooms in a housing accommodation, other than a publicly-assisted housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner or members of the owner's family reside in such housing accommodation.

§ 2. This local law takes effect 120 days after it becomes law, except that the commission on human rights may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, prior to such date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on March 9, 2016 and approved by the Mayor on March 28, 2016.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 38 of 2016, Council Int. No. 832-A of 2015) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.