

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1989**

No. 52

Introduced by Council Members Alter and Michels; also Council Members Castaneira Colon, Crispino, Dryfoos, Foster, Friedlander, McCaffrey, Messinger, Pinkett, Eisland and Dear.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to prohibiting discrimination based on alienage or citizenship status:

Be it enacted by the Council as follows:

Section one. Declaration of legislative intent and findings. New York City is currently home to more than one million aliens. These individuals make a unique contribution to the stimulating economic and cultural diversity which is one of the City's primary features. As a city of immigrants, New York City has a special obligation to assist those who, like most of our ancestors, have come to our country seeking a better way of life. Even under the best of circumstances, newcomers to this country find it difficult to obtain housing, employment and other necessities. However, this difficulty is compounded when landlords, employers or other persons practice discrimination against aliens. Aliens are also especially vulnerable to exploitation by unscrupulous entrepreneurs in many areas of life. The entire City suffers when a substantial part of its population lacks adequate housing, insurance coverage, health care or education.

Recent changes in federal immigration law, intended in part to discourage the entry of undocumented aliens into the United States, have aroused fears among immigrants of a growing bias within the community against those who may look or sound foreign. It has come to the City's attention that such people have been asked to document their citizenship status when such documentation was not required by law. Inquiries of this nature indicate that not only aliens, but those suspected of being aliens, face the threat of discrimination. Such intolerance harms the City and aggravates the difficult adjustment of American life which every newcomer must make.

It is the intent of the Council to prevent aliens from being treated unfairly in housing, employment and other areas of life. This law prohibits discrimination against aliens unless such prohibition is contrary to Federal, State or City law. Victims of alienage-based discrimination will have recourse to the City Commission on Human Rights. Unless otherwise mandated by law, all aliens are entitled to and will be guaranteed equal treatment. Nothing in this local law is intended to or shall have the effect of contradicting the requirements of federal law concerning the employment and provision of benefits to aliens.

§2. Section 8-102 of the administrative code of the city of New York is amended by adding a new subdivision eighteen to read as follows:

18. The term "alienage or citizenship status" means:

(a) the citizenship of any person, or

(b) the immigration status of any person who is not a citizen or national of the United States.

§3. Subdivisions one, one-a, two, three, three-a, four and five of section 8-107 of such code, subdivisions three and five are amended to read as follows:

§8-107 Unlawful discriminatory practices. 1. It shall be an unlawful discriminatory practice:

(a) For an employer, because of the age, race, creed, color, national origin, [or] sex *or alienage or citizenship status* of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

(b) For an employment agency to discriminate against any individual because of such individual's age, race, creed, color, national origin, [or] sex *or alienage or citizenship status* in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants for its services to an employer or employers.

(c) For a labor organization, because of the age, race, creed, color, national origin, [or] sex *or alienage or citizenship status* of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color, national origin, or sex *or alienage or citizenship status*, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

(e) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because such person has opposed any practices forbidden under this chapter or because such person has filed a complaint, testified or assisted in any proceeding under this chapter.

1-a. It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs:

(a) To select persons for an apprentice training program registered with the state of New York on any basis other than their qualifications, as determined by objective criteria which permit review.

(b) To deny to or withhold from any person because of his or her race, creed, color, national origin, [or] sex *or alienage or citizenship status* the right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, or other occupational training or retraining program.

(c) To discriminate against any person in his or her pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs because of race, creed, color, national origin, [or] sex *or alienage or citizenship status*.

(d) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, [or] sex *or alienage or citizenship status*, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

2. It shall be an unlawful discriminatory practice for any person, being the owner, lessee,

proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the race, creed, color, national origin, [or] sex or *alienage or citizenship status* of any person directly or indirectly, refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person account of race, creed, color, national origin, [or] sex or *alienage or citizenship status* or that the patronage or custom thereat of any person belonging to or purporting to be of any particular race, creed, color, national origin, [or] sex or *alienage or citizenship status* is unwelcome, objectionable or not acceptable, desired or solicited. Notwithstanding the foregoing, the provisions of this subdivision shall not apply, with respect to sex, to places of public accommodation, resort or amusement where the commission grants an exemption based on bona fide considerations of public policy. Any place of accommodation which is required as a result of this section to construct or reconstruct locker room, shower, or other facilities shall be allowed until May twenty-third, nineteen hundred eighty-five to complete such work, and prior to such date shall not be found to be in violation of the provisions of this subdivision which apply to such facilities with regard to discrimination on account of sex. The commission, for good cause shown, may grant an extension not to exceed an additional ninety days after the date allowed such place of accommodation to complete such work.

3. It shall be an unlawful discriminatory practice for the owner, lessee, sublessee, assignee, or managing agent of publicly-assisted housing accommodations or other person having the right of ownership or possession of or the right to rent or lease such accommodations:

(a) To refuse to rent or lease or otherwise to deny to or withhold from any person or group of persons such housing accommodations because of the race, creed, color, national origin, sex, age, [or] marital status or *alienage or citizenship status* of such person or persons, or because children are, may be or would be residing with such person or persons.

(b) To discriminate against any person because of such person's race, creed, color, national origin, sex, age, [or] marital status or *alienage or citizenship status* or because children are, may be or would be residing with such person, in terms, conditions or privileges of any publicly-assisted housing accommodations or in the furnishing of facilities or services in connection therewith.

(c) To cause to be made any written or oral inquiry or record concerning the race, creed, color, national origin, sex, age, [or] marital status or *alienage or citizenship status* of such a person seeking to rent or lease any publicly-assisted housing accommodation, or to make any such inquiry or record as to whether children are, may be or would be residing with such a person, provided, however, that this paragraph shall not be construed to prohibit inquiries concerning family size or whether children are, may be or would be residing with a person if such inquiries are made to assist such person in meeting the needs of a child, including but not limited to the availability of educational and recreational facilities, and are not for the purpose of limitation or discrimination.

(d) Nothing in this subdivision shall restrict the consideration of age in the rental of publicly-assisted housing accommodations if the division grants an exemption based on bona fide considerations of public policy for the purpose of providing for the special needs of a particular age group without the intent of prejudicing other age groups.

3-a. It shall be an unlawful discriminatory practice:

(a) For an employer or licensing agency, because an individual is between the ages of

eighteen and sixty-five *or because of any individual's alienage or citizenship status*, to refuse to hire or employ or license or to bar or to terminate from employment such individual, or to discriminate against such individual in promotion, compensation or in terms, conditions or privileges of employment.

(b) For any employer, licensing agency or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination respecting individuals between the ages of eighteen and sixty-five *or respecting any person's alienage or citizenship status*, or any intent to make any such limitation, specification or discrimination.

(c) For any employer, licensing agency or employment agency to discharge or otherwise discriminate against any person because he or she has opposed any practices forbidden under this chapter or because such person has filed a complaint, testified or assisted in any proceeding under this chapter. But nothing contained in this subdivision or in subdivision one of this section shall be construed to prevent the termination of the employment of any person who is physically unable to perform his or her duties or to affect the retirement policy or system of any employer where such policy or system is not merely a subterfuge to evade the purposes of said subdivisions; nor shall anything in said subdivisions be deemed to preclude the varying of insurance coverages according to an employee's age.

4. It shall be an unlawful discriminatory practice for an education corporation or association which holds itself out to the public to be non-sectarian and exempt from taxation pursuant to the provisions of article four of the real property tax law to deny the use of its facilities to any person otherwise qualified, by reason of such person's race, creed, color, age, [or] religion *or alienage or citizenship status*.

5. (a) It shall be an unlawful discriminatory practice for the owner, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease a housing accommodation, constructed or to be constructed, or any agent or employee thereof:

(1) To refuse to sell, rent, lease or otherwise deny to or withhold from any person or group of persons such a housing accommodation because of the race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status* of such person or persons, or because children are, may be or would be residing with such person or persons, in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

(2) To discriminate against any person because of such person's race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status*, or because children are, may be or would be residing with such person, in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

(3) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such a housing accommodation or to make any record or inquiry in conjunction with the prospective purchase, rental or lease of such a housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status*, or whether children are, may be, or would be residing with a person, or any intent to make such limitation, specification or discrimination.

The provisions of this paragraph (a) shall not apply: (1) to the rental of a 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, or (2) to the rental of a room or rooms in a 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, or (3) to the restriction of the rental of rooms in a rooming house, dormitory or residence hotel to one sex if such housing accommodation is regularly occupied on a permanent, as opposed to transient, basis by the majority of its guests.

(b) It shall be an unlawful discriminatory practice for the owner, lessee, sublessee, or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, or lease, land or commercial space:

(1) To refuse to sell, rent, lease or otherwise deny or to withhold from any person or group of persons such commercial space because of the age of such person or persons; or such land or commercial space because of the race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status* of such person or persons, or because children are, may be or would be residing with such person or persons.

(2) To discriminate against any person because of race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status*, or because children are, may be or would be residing with such person, in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial space or because of such person's age in relation to such commercial space; or in the furnishing of facilities or services in connection therewith.

(3) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of such land or commercial space which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status*, or whether children are, may be or would be residing with such person, or in relation to commercial space as to age; or any intent to make any such limitation, specification or discrimination.

(c) It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof:

(1) To refuse to sell, rent or lease any housing accommodation, land or commercial space to any person or group of persons or to refuse to negotiate for the sale, rental or lease, of any housing accommodation, land or commercial space to any person or group of persons because of the race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status* of such person or persons, or because children are, may be *or would be* residing with such person or persons, or in relation to commercial space because of the age of such person or persons, or to represent that any housing accommodation, land or commercial space is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise to deny or withhold any housing accommodation, land or commercial space or any facilities of any housing accommodation, land or commercial space from any person or group of persons because of the race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status* of such person or persons, or because children are, may be or would be residing with such person or persons, or in relation to commercial space because of the age of such person or persons.

(2) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of any housing accommodation, land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of any housing accommodation, land or commercial

space which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status*, or to whether children are, may be or would be residing with a person, or in relation to commercial space as to age; or any intent to make any such limitation, specification or discrimination.

(d) It shall be an unlawful discriminatory practice for any person, bank, trust company, private banker, savings bank, industrial bank, savings and loan association, credit union, investment company, mortgage company, insurance company, or other financial institution or lender, doing business in the city and if incorporated regardless of whether incorporated under the laws of the state of New York, the United States or any other jurisdiction, to whom application is made for financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, land or commercial space, or any officer, agent or employee thereof:

(1) To discriminate against any such applicant or applicants because of the race, creed, color, national origin, sex, age, [or] marital status *or alienage or citizenship status* of such applicant or applicants or of any member, stockholder, director, officer or employee of such applicant or applicants, or of the prospective occupants or tenants of such housing accommodation, land or commercial space, or because children are, may be or would be residing with such applicant, in the granting, withholding, extending or renewing, or in the fixing of rates, terms or conditions of any such financial assistance.

(2) To use any form of application for such financial assistance or to make any record or inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sex, age, [or] marital status *or alienage or citizenship status*, or whether children are, may be, or would be residing with a person.

(e) The provisions of this subdivision, as they relate to age, shall not apply to persons under the age of eighteen years.

(f) The provisions of this chapter with respect to discrimination against persons with whom children are, may be or would be residing shall not apply to dormitories or to the rental of housing units insured, subsidized or guaranteed by the federal government that are specifically designed to provide accommodations for senior citizens.

§4. Section 8-107 of such code is amended by adding a new subdivision eleven to read as follows:

11. Notwithstanding any other provision of this section, it shall not be an unlawful discriminatory practice for any person to discriminate on the ground of alienage or citizenship status, or to make any inquiry as to a person's alienage or citizenship status, or to give preference to a person who is a citizen or national of the United States over an equally qualified person who is an alien, when such discrimination is required or when such preference is expressly permitted by any law or regulation of the United States, the state of New York or the city of New York, and when such law or regulation does not provide that state or local law may be more protective of aliens. An applicant for a license or permit issued by the city of New York may be required to be authorized to work in the United States whenever by law or regulation there is a limit on the number of such licenses or permits which may be issued.

§5. This local law shall take effect immediately.

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 June 29, 1989, and approved by the Mayor on July 18, 1989.

CARLOS CUEVAS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed local law (Local Law 52 of 1989, Council Int. No. 1072-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 29, 1989:
32 for, 0 against

Was approved by the Mayor on July 18, 1989.

Was returned to the City Clerk on July 20, 1989.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel