

LOCAL LAW NO. “K” FOR 2009

A LOCAL LAW OF THE COUNTY OF ALBANY AMENDING AND UPDATING LOCAL LAW NO. 1 FOR 2000 ENTITLED “AN OMNIBUS HUMAN RIGHTS LAW FOR ALBANY COUNTY”

Introduced: 11/9/09

By Mr. Higgins:

BE IT ENACTED AS FOLLOWS:

SECTION 1. PURPOSE; JURISDICTION; POLICY

1. This local law shall be known as “An Omnibus Human Rights Law for Albany County” and it shall be deemed an exercise of the police power of the County of Albany for the protection of the public welfare, health and peace of the people of this County and in fulfillment of the provisions of the constitution and laws of this state concerning civil rights.
2. The County of Albany hereby finds and declares that the County has the responsibility to ensure that every individual within its boundaries is afforded an equal opportunity to enjoy a full and productive life, free from violation of basic civil and human rights; that discriminatory practices adversely affecting the equality of opportunity threaten the general welfare of the County and its inhabitants. The County of Albany realizes its obligation to protect the rights and privileges that all individuals have as human beings, and hereby gives the Albany County Human Rights Commission general jurisdiction and power to implement and enforce the provisions of this local law and to decide disputes referred to it through the County’s Executive Director of Human Rights under this local law, and the appellate jurisdiction to review any order made through the County’s Executive Director of Human Rights dismissing a complaint for lack of jurisdiction or for want of probable cause. The Human Rights Commission shall have the general jurisdiction and power to set forth and prescribe the duties of the Executive Director of Human Rights with respect to the implementation, administration and enforcement of this local law. Nothing in this local law shall affect the powers of the Albany County Executive under Articles 3 and 12 of the Albany County Charter, Local Law No. 8 for 1993, as amended by Local Law No. 7 for 1996, Local Law Nos. 6 and No. 7 for 1998 and Local Law No. 8 for 2000.
3. It is the policy of the County of Albany to encourage programs designed to ensure that every individual has an equal opportunity to participate fully in life pursuits in this County, free from violation of their basic civil and human

rights; and to prohibit discrimination because of race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence in areas of employment, public accommodations, housing and real property transactions.

4. In establishing this policy the Albany County Legislature makes clear its action is not intended to promote any particular attitude, course of conduct or way of life. Rather, its purpose is to ensure that individuals who live in our free society have the capacity to make their own choice, follow their own beliefs and conduct their own lives as they see fit, consistent with existing law. Nothing in this legislation should be construed to create, add, alter or abolish any right to marry that may exist under any federal or state constitution or state law.
5. Furthermore, nothing contained herein is to be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes and operated, supervised or controlled by or connected with a religious organization, from limiting employment or sale or rental of housing accommodations or admission to or giving preference to persons of the same religion or denomination or for making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

SECTION 2. EQUALITY OF OPPORTUNITY A CIVIL RIGHT

The opportunity to obtain employment, use of places of public accommodation, and the use, occupancy and/or ownership of housing accommodations, land and commercial space without discrimination because of race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence is hereby recognized as and declared to be a civil right. Nothing contained herein, however, shall be construed to protect conduct otherwise proscribed by law.

SECTION 3. DEFINITIONS

Terms not explicitly defined herein shall have the same meanings as defined and used in Section 292 of the New York Executive Law, as amended, and incorporated herein by reference.

1. The term “person” includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.
2. The term “employment agency” includes any person undertaking to procure employees or opportunities to work.
3. The term “employee” as used in this local law does not include any individual employed by his parents, spouse or child, or in the domestic service of any person.
4. The term “Commission”, unless a different meaning clearly appears from the context, means the Albany County Human Rights Commission which shall consist of no more than nine (9) members appointed by the Albany County Legislature upon the recommendations of the County Executive and the Legislature's Majority and Minority Leaders and serving at the pleasure of the County Legislature.
5. The term “national origin”, for the purpose of this local law, shall include “ancestry”. The term “disability”, “marital status” and “sex” and used shall be defined and used for the purpose of this local law as they are defined and used in the New York Executive Law, Article 15, Section 292, as amended, incorporated by reference. The term “sexual orientation” includes actual or expressly perceived homosexuality, heterosexuality, asexuality and bisexuality.
6. The term “place of public accommodation, resort or amusement” shall include, except as hereinafter specified, all places included in the meaning of such term as set forth in the New York Executive Law, Article 15, Section 292, as amended, incorporated herein by reference.
7. The term “housing accommodation” includes any building, structure, or portion thereof which is used or occupied or is intended, arranged, or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings.
8. The term “discrimination” shall include segregation and separation.
9. The pronouns “him”, “her”, “himself”, “herself”, “he”, and “she” are used interchangeably to designate an individual regardless of the gender thereof.
10. The term “office”, unless a different meaning clearly appears from the context, means the Division of Affirmative Action within the Department of Human Resources.

11. The term “gender” shall include actual or perceived sex and shall include a person's gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.
12. The term “victim of domestic violence” shall mean 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 cohabitating with or has cohabitated 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.
13. The term “victim of sexual violence” shall mean a person who has been a victim of a crime or attempted crime that is defined in Article 130 of the Penal Law of the State of New York.
14. The term “Hearing Officer” shall mean a person jointly designated by the County Executive and the County Legislature who shall make probable cause determinations on behalf of the Commission and who will hold hearings on matters referred by the Commission and/or the Human Rights Executive Director. The designated Hearing Officer shall have the authority to issue subpoenas in the manner provided for in the civil practice law and rules compelling the attendance of witnesses, or requiring the production of any evidence material and relevant to any matter within the jurisdiction of the Commission.

SECTION 4. COMMISSION ESTABLISHMENT, APPOINTMENT OF MEMBERS, VACANCIES, QUALIFICATIONS OF MEMBERS

1. There is hereby established a Commission on Human Rights comprised of nine members appointed by the Albany County Legislature, three of whom shall be appointed upon the recommendation of the County Executive, four of whom shall be appointed upon the recommendation of the Majority Leader and two of whom shall be appointed upon the recommendation of the Minority Leader.
2. Members shall be appointed for three year terms; provided however, that:
 - A. Of members initially appointed upon the recommendation of the County

Executive: one shall be for a term of one year; one shall be for a term of two years; and one shall be for a term of three years.

B. Of members initially appointed upon the recommendation of the Majority Leader: one shall be for a term of one year; one shall be for a term of two years; and two shall be for a term of three years.

C. Of members initially appointed upon the recommendation of the Minority Leader: one shall be for a term of two years; and one shall be for a term of three years.

3. Members shall continue to serve on the Commission until their successors have been appointed.
4. Annually from among its membership, the Legislature shall select a chairperson.
5. Any vacancy occasioned by resignation, death or removal of a member shall be filled promptly in the same manner as the predecessor to fill the unexpired term.
6. Members of the Commission shall reside in the County of Albany and possess a reputation for fairness, integrity and responsibility and have demonstrated an active interest in public affairs and service. Officers and employees of the County of Albany shall not be eligible for appointment.

SECTION 5. MEETINGS

1. The Commission shall meet no less than four times per year and shall establish a regular meeting calendar which is readily accessible to the public. Meetings of the Commission shall be public and comply with provisions of the Open Meetings Law. Other meetings may be held at the request of the chair of the Commission or upon written request of a majority of the Commission or as provided for in written rules and procedures adopted by the Commission.
2. Five members of the Commission shall constitute a quorum. A minimum of five votes shall be required for any action.
3. The Commission shall develop such rules and bylaws as necessary for the transaction of business and the conduct of meetings and as may be necessary to effectuate the provisions of this local law, which rules and regulations, and any modifications thereto, shall not be effective unless and

until such rules and regulations, or amendments and modifications, have been subject to a 45-day comment period which shall commence upon filing with the County Clerk and with the Clerk of the Legislature, and with the final adopted rules and regulations, or amendments and modifications to be filed with the County Clerk.

SECTION 6. GENERAL POWERS AND DUTIES OF THE COMMISSION

The Commission, by its members or their duly authorized officers or employees, shall have the following functions, powers and duties:

1. To foster mutual respect and understanding among all racial, religious and nationality groups in the community.
2. To make such studies in any field of human relationship in the community as in the judgment of the Commission will aid in effectuating its general purposes and where desirable, to make the results of such studies public.
3. To inquire into incidents of tension and conflict among or between various racial, religious and nationality groups, and to take such action as may be designed to alleviate such tensions and conflict.
4. To conduct and recommend such educational programs as, in the judgment of the Commission, will increase goodwill among inhabitants of the community and open new opportunities into all phases of community life for all inhabitants. The Commission may not require that any educational program be conducted or any materials be distributed within a public school, private school, or a religious or denominational institution licensed by the State of New York.
5. To report complaints to the State Division of Human Rights alleging unlawful discriminatory practices under Article Fifteen of the Executive Law and to report unlawful discriminatory practices that fall outside its jurisdiction to the proper governmental authorities.
6. To receive, accept and expend, with the approval of the County Legislature, public grants and private gifts, donations or bequests and other payments, goods and services, notwithstanding any other provision of law. Any moneys so received may be expended by the Commission to effectuate any purpose of this local law, subject to the same limitations as to approval of expenditures and audit as are prescribed for County moneys appropriated for the purpose of this local law.

7. To refer matters to the Hearing Officer for the purpose of holding hearings when appropriate in making determinations of probable cause.
8. To review and approve the findings and recommendations of the County Hearing Officer and/or the Executive Director of Human Rights.
9. To appoint an Executive Director of Human Rights, subject to confirmation by the Legislature who shall serve at the pleasure of the Legislature and to utilize the services of such other employees or assistants within the amounts appropriated therefor.
10. To enter into written agreements with federal, state and municipal agencies and Commissions for purposes of achieving inter-governmental cooperation and coordination in matters pertaining to discrimination and the handling of complaints and investigations of discrimination.

SECTION 7. GENERAL OBLIGATIONS OF THE COMMISSION

The Commission, by its members or their duly authorized officers or employees, shall have the following general obligations:

1. To receive complaints of alleged discrimination in accordance with this local law, to seek the active assistance of the State Division of Human Rights in the resolution of complaints which fall within the jurisdiction of the Division and to prepare its own plans in the case of other complaints with a view to reducing and eliminating such alleged discrimination through the process of conference, conciliation and persuasion and any other means necessary to carry out the purposes of the this local law.
2. To hold conferences, and other public meetings in the interest of the constructive resolution of racial, religious and nationality group tensions and the prejudice and discrimination occasioned thereby.
3. To issue such publications and reports of investigations as in its judgment will tend to effectuate the purpose of this local law.
4. To enlist the cooperation and participation of the various racial, religious and nationality groups, community organizations, industry and labor organizations media or mass communication, fraternal and benevolent associations, and other groups in an educational campaign devoted to fostering among the diverse groups of the community mutual esteem, justice and equity and opening new opportunities into all phases of community life for all individuals.

5. To encourage and stimulate Albany County agencies to take such action as will fulfill the purposes of this local law.
6. To submit an annual report to the County Executive and County Legislature and to furnish a copy thereof to the State Division of Human Rights.
7. To recommend to the County Executive and the Legislature legislation to aid in carrying out the purposes of this effort.
8. To prepare a manual of all of its rules and regulations and to furnish copies thereof to persons desiring same.

SECTION 8. GENERAL POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR OF HUMAN RIGHTS

There is hereby established the position of Executive Director of Human Rights who shall have the following functions, powers and duties:

1. To handle all inquiries from employers, employees, landlords, tenants, individuals and organizations regarding this local law or other problems involving the rights of individuals.
2. To promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this local law and the policies and practices of the Commission in connection therewith in consultation with the Commission subject to approval of the Legislature.
3. To receive, investigate and attempt to conciliate complaints alleging violations of this local law and to refer cases to other organizations where deemed appropriate.
4. To investigate and to make, sign and file complaints alleging violations of this local law, to initiate investigations and studies to carry out the purposes of this local law.
5. To seek the active assistance of the State Division of Human Rights in the resolution of complaints which fall within the jurisdiction of the Division and to address cases of other complaints with view to reducing and eliminating such alleged discrimination through the process of conference, conciliation and persuasion and any other means necessary to carry out the purposes of the this local law.

6. To inquire into incidents of and conditions which may lead to tension and conflict among racial, religious and nationality groups and to take such action within the authority granted by law as may be designed to alleviate such conditions tension and conflict.
7. To speak on behalf of the Human Rights Commission to various local and state organizations to implement the educational function of the Human Rights Commission within the community.
8. To assist the Hearing Officer in making determinations of probable cause and to administer and coordinate information necessary to conduct hearings on Commission matters.

SECTION 9. UNLAWFUL DISCRIMINATORY PRACTICES

1. It shall be an unlawful discriminatory practice:
 - A. For an employer or licensing agency, because of the race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence 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 race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants to an employer or employers.
 - C. For a labor organization, because of the age, race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence 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 limitations, or discrimination as to race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification; provided, however, that neither this paragraph nor any provision of this local law or other law shall be construed to prohibit the personnel office from requesting information from applicants for civil service examinations concerning any of the aforementioned characteristics for the purpose of conducting studies to identify and resolve possible problems in recruitment and testing of members of minority groups to insure the fairest possible and equal opportunities for employment in the civil service for all persons, regardless of race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence.
- E. For any employer or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices forbidden under this local law or because he has filed a complaint, testified or assisted in any proceeding under this local law.
- F. Nothing in this subdivision shall affect any restrictions upon the activities of persons licensed by the state liquor authority with respect to persons under twenty-one years of age.
- G. Nothing contained herein shall restrict an employer's right to insist that an employee meet bona fide job-related qualifications of employment; shall authorize or require employers to establish affirmative action quotas based on sexual orientation or to inquire about the sexual orientation of current or prospective employees.
- H. It shall be an unlawful discriminatory practice for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to deny any license or employment to any individual by reason of his having been convicted of one or more criminal offenses, or by reason of a finding of a lack of "good moral character" which is based upon his having been convicted of one or more criminal offenses, when

such denial is in violation of the provisions of article twenty-three-a of the correction law.

2. A. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, agent or employee of any place of public accommodation, resort or amusement, because of the race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, including the extension of credit, 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 person on account of race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence or that the patronage or custom thereof any person of or purporting to be of any particular race, sex, creed, color, religion, national origin, sexual orientation, age, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence or having a disability or genetic predisposition or carrier status, is unwelcome, objectionable or not acceptable, desired or solicited.
 - B. Nothing in this subdivision shall be construed to prevent the barring of any person, because of the sex of such person, from places of public accommodations, resort or amusement if the Commission grants an exemption based on bona fide considerations of public policy; nor shall this subdivision apply to the rental of rooms in a housing accommodation which restricts such rental to individuals of one sex.
3. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesman or employee or agent thereof or any other individual, corporation, partnership or organization for the purpose of inducing a real estate transaction from which any such person or any of its stockholders or members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence of the owners or occupants in

the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other facilities.

- A. It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, 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 to deny to or withhold from any person or group of persons such a housing accommodation because of the race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence.
 2. To discriminate against any person because of his race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence 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 housing accommodation or to make any record or inquiry in connection with the prospective purchase, rental or lease of housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence or any intent to make any such limitation, specification or discrimination.

The provision 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 his family reside in one of such housing accommodations, (2) to the restriction of the rental of all rooms in a housing accommodation to individuals of the same sex or (3) 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 he or members of his family reside in such housing accommodation or (4) solely with respect to age to the restriction of the sale, rental or lease of housing accommodations exclusively to persons fifty-five years of age or older.

B. It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, 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 to or withhold from any person or group of persons such land or commercial space because of the age of such person or persons or because of the race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence.
2. To discriminate against any person because of her race, sex, creed, color, religion, national origin sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial space; or in the furnishing of facilities or service 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, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender,

active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence; or any intent to make any such limitation, specification or discrimination.

4. With respect to age, the provisions of this paragraph shall not apply to the restriction of the sale, rental or lease of land or commercial space exclusively persons fifty-five years of age or older.

C. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesman 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, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence 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, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence.
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, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender,

active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence; or any intent to make any such limitation, specification or discrimination.

3. With respect to age, the provisions of this paragraph shall not apply to the restriction of the sale, rental or lease of any housing accommodation, land or commercial space exclusively to persons fifty-five years of age or older.

D. It shall be an unlawful discriminatory practice for any real estate board, because of the race, sex, creed, color, religion, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status, gender, active military service, previous military service, being a victim of domestic violence or being a victim of sexual violence regarding any individual who is otherwise qualified for membership, to exclude such individual from membership, or to discriminate against such individual in the terms conditions and privileges of membership in such board.

5. It shall be an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this local law, or to attempt to do so.
6. It shall be an unlawful discriminatory practice for any person engaged in any activity to which this section applies to retaliate or discriminate against any person because he has opposed any practices forbidden under this article or because he has filed a complaint, testified or assisted in any proceeding under this local law.
7. It shall be an unlawful discriminatory practice for any party to a conciliation agreement made pursuant to Section 8. of this local law to violate the terms of such agreement.
8. Notwithstanding the provisions of subdivisions one and four of this section, it shall not be an unlawful discriminatory practice for an employer, employment agency, labor organization or joint labor-management committee to carry out a plan to increase the employment of members of a minority group.
9. Nothing in this section shall prohibit the offer or acceptance of a partial discount to a person 65 years of age or older for housing accommodations.

SECTION 10. PROCEDURE

1. Any person claiming to be aggrieved by an unlawful discriminatory practice may, by himself or by his attorney, make, sign and file with the Human Rights Commission through the Albany County Executive Director of Human Rights a verified complaint in writing which shall state the name and address of the person alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the Human Rights Commission through the Executive Director of Human Rights. The Human Rights Commission through the Executive Director of Human Rights may on its own motion, in like manner make, sign and file such complaint. In connection with the filing of such complaint, the Hearing Officer is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules. Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of this local law, may file with the Human Rights Commission through the Executive Director of Human Rights a verified complaint asking for assistance by conciliation or other remedial action.
2. After the filing of any complaint, the Human Rights Commission, through the Executive Director of Human Rights, shall promptly serve a copy thereof upon the respondent and all persons the Commission and Hearing Officer deems to be necessary parties, and make prompt investigation in connection therewith. Within ten days after a complaint is filed, the Executive Director of Human Rights and the Hearing Officer shall determine whether the Commission has jurisdiction and, if so, within ninety days after a complaint is filed whether there is probable cause to believe that the person named in the complaint, hereinafter referred to as the respondent, has engaged or is engaging in an unlawful discriminatory practice. If the Executive Director of Human Rights and Hearing Officer find with respect to any respondent that the Commission lacks jurisdiction the complaint shall be rejected. If the Executive Director of Human Rights and the Hearing Officer find with respect to any respondent that the complaint fails to show probable cause, the Executive Director of Human Rights shall cause to be served on the complainant an order, subject to appellate review by the Commission, dismissing said complaint as against the respondent.
3. If in the judgment of the Executive Director of Human Rights the circumstances so warrant, he or she may, at any time after the filing of the complaint, endeavor to eliminate such unlawful discriminatory practice by conference, conciliation and persuasion. Each conciliation agreement shall include provisions requiring the respondent to refrain from committing discriminatory practices in the future and may contain such further

provisions as may be agreed upon by the Executive Director of Human Rights and the respondent in the agreement. The Executive Director of Human Rights shall not disclose what has transpired in the course of such endeavors.

4. If the respondent and the Executive Director of Human Rights agree upon conciliation terms, the Executive Director of Human Rights shall serve upon the complainant and respondent a copy of the proposed conciliation agreement. If the complainant and respondent agree to the terms of the agreement or fail to object to such terms within fifteen days after its service upon them, the Executive Director of Human Rights shall issue an order embodying such conciliation agreement. If the respondent or complainant objects to the agreement, he shall serve a written specification of his objections upon the Executive Director of Human Rights within such period.
5. If a conciliation agreement is entered into, the Executive Director of Human Rights shall serve a copy of the order embodying such agreement upon all parties to the proceeding.
6. The Executive Director of Human Rights on behalf of the Commission shall have the authority to dismiss any complaint for administrative convenience for reasons which may include but are not limited to a.) the Commission being unable to locate a complainant after diligent efforts to do so; b.) the complainant's failure to appear; c.) the complainant's failure to accept a reasonable proposed conciliation agreement; d.) the complainant requests a dismissal and the respondent will not be unduly prejudiced; e.) the complainant has initiated or wants to initiate an action or proceeding in another forum based on the same transaction, acts or alleged discriminatory practice, where the administrative convenience dismissal would not contravene the election of remedies provisions contained in subsequent sections of this local law.
7. Any complaint filed pursuant to this section must be so filed within one year after the alleged discriminatory practice.
8. Not later than one year from the date of a conciliation agreement or an order issued under this section, and at any other time in his/her discretion, the Executive Director of Human Rights shall investigate whether the respondent is complying with the terms of such agreement or order. Upon a finding of noncompliance, the Executive Director of Human Rights shall take appropriate action to assure compliance.
9. No agent or employee of the Executive Director of Human Rights shall make public with respect to a particular person without his consent information

from reports obtained by the Executive Director of Human Rights except as necessary to the conduct of a proceeding under this section.

10. Any person claiming to be aggrieved by an unlawful discriminatory practice may have a cause of action in a court of appropriate jurisdiction unless such person had filed a complaint hereunder, provided that, where the Executive Director of Human Rights has dismissed such complaint on the grounds of administrative convenience, such person shall maintain all rights to bring suit as if no complaint had been filed. No person who has initiated any action in a court of competent jurisdiction or who has an action pending before any administrative agency under any other law of the state based upon an act which would be an unlawful discriminatory practice under this local law, may file a complaint with respect to the same transaction, acts or alleged discriminatory practice under this local law.

SECTION 11. ENFORCEMENT

Any person who is aggrieved by an unlawful discriminatory practice set forth in this local law shall have a cause of action in any court of appropriate jurisdiction for damages and such other remedies at law and in equity as may be appropriate. If the court should find a violation of this local law, it may take such action as may be appropriate, including but not limited to: requiring such party to cease and desist from such unlawful discriminatory practice; requiring such party to take such affirmative action, including (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay; restoration to membership in any labor organization, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program or other occupational training or retraining program; the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons; granting the credit which was the subject of any complaint, and the awarding of compensatory damages to the person aggrieved by the unlawful discriminatory practice.

SECTION 12. SEVERABILITY

If any part or provision of this local law, or the application thereof to any individual or circumstance, is held invalid, the remainder of the local law shall not be affected thereby and shall continue in force and effect.

SECTION 13. EFFECTIVE DATE

Local Law No. 1 for 2000 is hereby repealed and superseded by this local law. This local law shall take effect immediately.

Referred to Audit and Finance and Law Committees. 11/9/09