

TOMPKINS COUNTY

Anti-Discrimination Law

DRAFT

Sec. ##. Short Title.

This Local Law shall be known as and may be cited as the "Tompkins County Anti-Discrimination Law."

Sec. ##. Statement of Policy.

- (a) The Tompkins County Legislature hereby finds and declares that it has the responsibility to act to assure that every individual within this County is afforded an equal opportunity to enjoy a full and productive life and that the failure to provide such equal opportunity, whether because of discrimination, prejudice, intolerance or inadequate education, training, housing or health care not only threatens the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic society and threatens the peace, order, health, safety and general welfare of the County and its inhabitants. The Tompkins County Office of Human Rights, a department of this County, was created in 1963 to encourage programs designed to insure that every individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the county; to encourage and promote the development and execution by all persons within the County of such County programs; to eliminate and prevent discrimination in employment, in places of public accommodation, in educational institutions, in public services, in housing accommodations, in commercial space, and in credit transactions and to take other actions against discrimination as herein provided; and the Office of Human Rights has hereby been given general jurisdiction and power for such purposes.

Sec. ##. Equality of Opportunity a Civil Right.

- (a) The opportunity to obtain employment; ownership, use and occupancy of housing accommodations; the use of places of public accommodation; and education without discrimination because of age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest and conviction record, domestic violence victim status, gender identity/expression, predisposing genetic disposition (employment only), source of income (real estate only), and familial status (real estate only) is hereby recognized as and declared to be a civil and human right.
- (b) The prohibitions in this local law are substantially similar, but not necessarily identical, to prohibitions in federal and state law. The intent is to assure that a complaint filed under this local may proceed more promptly than is possible under either federal or state law. It is not County policy, however, to create a duplicative or cumulative process to those existing under similar or identical state or federal laws. Once a complaint is fully adjudicated under a similar or identical state or federal law, the complaint should not be reprocessed under this local law if the effect is duplicative or cumulative.
- (c) Remedies under this local law should include such relief authorized by law as may be appropriate and reasonable to provide temporary or preliminary relief as well as to make the aggrieved person whole and eliminate the discriminatory practice.
- (d) Nothing contained in this local law is intended to be nor shall be construed to create or form the basis for any liability on the part of the County, or its officers, employees or agents, for any injury or damage resulting from or by reason of any act or omission in connection with the implementation or enforcement of this local law on the part of the County by its officers, employees, or agents.
- (e) This local law shall be liberally construed to preserve the public safety, health, and general welfare, and to further the general purposes stated therein.

Sec. ##. Definitions.

- (a) Definitions as used in this local law, unless additional meaning clearly appears from the context, shall have the meanings subscribed below:
- (1) **“Administrator”** means Tompkins County Administrator.
 - (2) **“Board”** means the Tompkins County Fair Hearing Review Board.
 - (3) **“Charging party”** means the person aggrieved by a discriminatory practice, or the person making a charge on another person’s behalf, or the Director when the Director files a charge.
 - (4) **“Commercial space”** means any space in a building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property; and any space which is used or occupied, or is intended, arranged or designed to be used or occupied as a separate business or professional unit or office in any building, structure or portion thereof.
 - (5) **“Commission”** means the Tompkins County Human Rights Commission.
 - (6) **“Commissioner”** means an individual appointed and confirmed to serve on the Commission.
 - (7) **“Complainant”** means the person (including the Director) who files a complaint under this statute.
 - (8) **“Conciliation”** means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Director.
 - (9) **“Conciliation agreement”** means a written agreement setting forth the resolution of the issues in conciliation.
 - (10) **“Credit”** when used in this local law means the right conferred upon a person by a creditor to incur debt and defer its payment, whether or not any interest or finance charge is made for the exercise of this right.
 - (11) **“Creditor”** means any person or financial institution which does business in this state and which extends credit or arranges for the extension of credit by others. The term creditor includes, but is not limited to, banks and trust companies, private bankers, foreign banking corporations and national banks, savings banks, licensed lenders, savings and loan associations, credit unions, sales finance companies, insurance premium finance agencies, insurers, credit card issuers, mortgage brokers, mortgage companies, mortgage insurance corporations, wholesale and retail merchants and factors.
 - (12) **“Director”** means the Director of the Office of Human Rights and includes the Director’s designee.
 - (13) **“Disability”** means (1) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (2) a record of such an impairment or (3) a condition regarded by others as such an impairment, provided, however, that in all provisions of this local law dealing with employment, the term shall be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held.
 - (14) **“Discriminate”** means any conduct, whether by single act or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals, because of age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest and conviction record, domestic violence victim status, gender identity/expression, predisposing genetic disposition (employment only), source of

income (real estate only), and familial status (real estate only). The term shall also include segregation and separation.

- (15) **“Domestic violence victim”** means an individual who is a victim of an act which would constitute a family offense pursuant to Subdivision 1 of Section 812 of the Family Court Act.
- (16) **“Domestic worker”** shall have the meaning set forth in Section 2 of the New York State Labor Law.
- (17) **“Dwelling”** means any building, facility or structure, or portion thereof, that is designed, intended or arranged for occupancy as a home, residence or sleeping place of one or more individuals. Dwelling includes that portion of a dwelling used for a home occupation. Dwelling includes publicly-assisted housing accommodations.
- (18) **“Employee”** means any individual employed by an employer, either for compensation, or as an intern, or as an apprentice. Employee includes an individual seeking or applying for employment by an employer. Employee does not include any individual employed by his or her parents, spouse or child, or in the domestic service of any person.
- (19) **“Employer”** means any person who employs four or more individuals in the County, either for compensation, or as an intern, or as an apprentice. Employer includes a person who recruits an individual in the County to apply for employment in the County or elsewhere.
- (20) **“Employment agency”** includes any person undertaking to procure employees or opportunities to work.
- (21) **“Familial status”** means:
 - (A) Any person who is pregnant or has a child or is in the process of securing legal custody of any individual who has not attained the age of eighteen years, or
 - (B) One or more individuals (who have not attained the age of eighteen years) being domiciled with:
 - (i) A parent or another person having legal custody of such individual or individuals, or
 - (ii) The designee of such parent.
- (22) **“Gender identity and expression”** means a person's gender-related identity, appearance, behavior, expression, or other gender-related characteristic, including, but not limited to, the status of being transgender. (8/3/15 edit)
- (23) **“Genetic test”** shall mean a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.
- (24) **“Hearing examiner”** means an employee of the division who shall be assigned for stated periods to no other work than the conduct of hearings under this local law;
- (25) **“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, including publicly-assisted housing accommodations.
- (26) **“Intern”** means a person who performs work for an employer for the purpose of training under the following circumstances:
 - (A) The employer is not committed to hire the person performing the work at the conclusion of the training period;
 - (B) The employer and the person performing the work agree that the person performing the work is not entitled to wages for the work performed; and
 - (C) The work performed:
 - (i) Provides or supplements training that may enhance the employability of the intern;
 - (ii) Provides experience for the benefit of the person performing the work;

- (iii) Does not displace regular employees; and
 - (iv) Is performed under the close supervision of existing staff.
- (27) **“Labor organization”** includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.
- (28) **“Marital Status”** means the presence or absence of a marital relationship and includes the statuses of married, separated, divorced, engaged, widowed, single, or cohabitating.
- (29) **“Military status”** means a person's participation in the military service of the United States or the military service of the state, including but not limited to, the armed forces of the United States, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law.
- (30) **“National origin”** for the purposes of this local law shall include “ancestry.”
- (31) **“Parties to the proceeding”** means the complainant, respondent, necessary parties and persons permitted to intervene as parties in a proceeding with respect to a complaint filed under this local law.
- (32) **“Person”** includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.
- (33) **“Place of public accommodation”** shall include, except as hereinafter specified, all places included in the meaning of such terms as: resorts, places of amusement, inns, taverns, road houses, hotels, motels, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest, or restaurants, or eating houses, or any place where food is sold for consumption on the premises; buffets, saloons, bar rooms, or any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectionaries, soda fountains, and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of any kind are retailed for consumption on the premises; wholesale and retail stores and establishments dealing with goods or services of any kind, dispensaries, clinics, hospitals, bath-houses, swimming pools, laundries and all other cleaning establishments, barber shops, beauty parlors, theatres, motion picture houses, airdromes, roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, trailer camps, resort camps, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors; garages, all public conveyances operated on land or water or in the air, as well as the stations and terminals thereof; travel or tour advisory services, agencies or bureaus; public halls and public elevators of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants. Such term shall not include public libraries, kindergartens, primary and secondary schools, high schools, academies, colleges and universities, extension courses, and all educational institutions under the supervision of the regents of the state of New York; any such public library, kindergarten, primary and secondary school, academy, college, university, professional school, extension course or other education facility, supported in whole or in part by public funds or by contributions solicited from the general public. Such term shall not include any institution, club or place of accommodation which proves that it is in its nature distinctly private. In no event shall an institution, club or place of accommodation be considered in its nature distinctly private if it has more than one hundred members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of a nonmember for the furtherance of trade or business. An institution, club, or place of accommodation which is not deemed distinctly private pursuant to this local law may nevertheless apply such selective criteria as it chooses in the use of its facilities, in evaluating applicants for membership and in the conduct of its activities, so long as such selective criteria

do not constitute discriminatory practices under this local law or any other provision of law. For the purposes of this local, a corporation incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state or a religious corporation incorporated under the education law or the religious corporations law shall be deemed to be in its nature distinctly private.

- (34) **“Predisposing genetic characteristic”** means shall mean any inherited gene or chromosome, or alteration thereof, and determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of development of a physical or mental disease or disability.
- (35) **“Publicly-assisted housing accommodations”** shall include all housing accommodations within Tompkins County that is
 - (A) Public housing or
 - (B) Housing operated by housing companies under the supervision of the commissioner of housing.
- (36) **“Real estate broker”** means any person, firm or corporation who, for another and for a fee, commission or other valuable consideration, lists for sale, sells, at auction or otherwise, exchanges, buys or rents, or offers or attempts to negotiate a sale, at auction or otherwise, exchange, purchase or rental of an estate or interest in real estate, or collects or offers or attempts to collect rent for the use of real estate, or negotiates, or offers or attempts to negotiate, a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate. In the sale of lots pursuant to the provisions of Article 9(a) of the New York State Real Property Law, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.
- (37) **“Real estate agent”** means a person employed by a licensed real estate broker to list for sale, sell or offer for sale, at auction or otherwise, to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate, or to lease or rent or offer to lease, rent or place for rent any real estate, or who collects or offers or attempts to collect rent for the use of real estate for or in behalf of such real estate broker.
- (38) **“Real estate transaction”** means any of the following:
 - (A) The making or purchasing of loans or providing other financial assistance:
 - (i) For purchasing, constructing, improving, repairing, or maintaining real property; or
 - (ii) Secured by real property; or
 - (B) The selling, brokering, or appraising of real property.
- (39) **“Reasonable accommodation”** means actions taken which permit an employee, prospective employee or member with a disability to perform in a reasonable manner the activities involved in the job or occupation sought or held and include, but are not limited to, provision of an accessible worksite, acquisition or modification of equipment, support services for persons with impaired hearing or vision, job restructuring and modified work schedules; provided, however, that such actions do not impose an undue hardship on the business, program or enterprise of the entity from which action is requested.
- (40) **“Reserve armed forces”** means service other than permanent, full-time service in the military forces of the United States including but not limited to service in the United States Army Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Air Force Reserve, or the United States Coast Guard Reserve.

- (41) **“Respondent”** means any person who is alleged to have committed a discriminatory practice prohibited by this local law.
- (42) **“Service dog”** means any dog that is trained to work or perform specific tasks for the benefit of a person with a disability by a recognized service dog training center or professional service dog trainer, and is actually used for such purpose.
- (43) **“Sexual orientation”** means heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived. However, nothing contained herein shall be construed to protect conduct otherwise proscribed by law.
- (44) **“Source of income”** shall include: wages from lawful employment; child support; alimony; foster care subsidies; income derived from social security, or any form of federal, state or local public assistance; housing and rental subsidies and assistance, including Section 8 vouchers; savings, investment and trust accounts; and any other forms of lawful income.
- (45) **“Undue burden”** means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered shall include:
 - (A) The nature and cost of the action needed under this division;
 - (B) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;
 - (C) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;
 - (D) If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and
 - (E) If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.

Sec. ##. Powers and Duties of the Tompkins County Office of Human Rights.

- (a) The authority and responsibility for administering this local law shall be the Office of Human Rights (Office).
- (b) The Office shall formulate policies to effectuate the purposes of this local law and may make recommendations to agencies and officers of the County in aid of such policies and purposes.
- (c) The Office shall have the power to adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this local law and the policies and practices of the Fair Hearing Review Board (Board) in order for:
 - (1) The Director to certify a complaint to the Board;
 - (2) The Commission to select members of a Board, including a Board member to fill a vacancy that arises before the case is resolved;
 - (3) The Board to select a Board chair;
 - (4) The Board to decide whether a hearing examiner or the board itself will conduct a hearing.
- (d) The Office shall annually report to County Administrator (Administrator) and the Tompkins County Human Rights Commission (Commission) any outcomes, activities, and statistics related to the enforcement of this local law.

- (e) This local law shall not affect any powers granted to the Office or the Commission under its enabling statute and/or County Charter.
- (f) In proposing a budget for the operation of the Office and in selecting other personnel and facilities, the Administrator and the County Legislature must seek and consider the recommendations of the Office.
- (g) The Office shall educate County residents about discriminatory practices through the use of literature, counseling, educational workshops, or public forum. The Office may work with the Commission and any other government or non-government agency or organization to identify initiatives that educate the public about discriminatory practices.
- (h) The Administrator may assign additional staff to assist the Office in carrying out this local law.

Sec. ##. Powers and Duties of the Director of Human Rights.

- (a) The Director of Human Rights (Director) heads the Office of Human Rights and must assist the Board and Commission to implement this local law.
- (b) The Director may issue regulations to carry out the responsibilities of the Director and the Office of Human Rights under this local law.
- (c) The Director may receive sworn complaints alleging discrimination that violate this local law.
- (d) Before and after a complaint is certified to the Board, the Director may investigate, resolve, or conciliate the complaint.
- (e) The Director promptly shall certify a complaint to the Board after the Director determines whether there are reasonable grounds to believe that the respondent violated this local law, if:
 - (1) The Director determined that there are reasonable grounds to believe a violation occurred and the complaint was not resolved by conciliation; or
 - (2) The Director determined that there are no reasonable grounds to believe a violation occurred and the complainant appeals the Director's decision to the Board.
- (f) If the Director and the County Attorney determine that a representational conflict exists within the Board, the County Attorney will have the power to disqualify that member of the Board.
- (g) The Director must carry out any other assigned duties described in this local law.

Sec. ##. Creation of a Fair Hearing Review Board.

- (a) Fair Hearing Review Board membership. —
 - (1) There is hereby created a Fair Hearing Review Board (Board). Such Board shall consist of three (3) members who shall be recommended by the majority of the Commission and appointed by the County Legislature. Two (2) members of the Board must be members of the Commission at the time of his or her appointment. One (1) member shall be a County resident at large (member of the Tompkins County Bar Association?).
 - (2) Each Board member is subject to disqualification due to either actual or perceived conflicts of interest, including the following:
 - (A) Any interest in the complaint;
 - (B) Any close relationship with the parties;
 - (C) Participated in the investigation of the complaint; or
 - (D) Participated in any conciliation of the complaint before a hearing on the merits.

- (3) A Board member serves until the complaint is resolved, even if the Board member's membership on the Commission ends before the case is resolved.
- (4) Three (3) members of the Board shall constitute a quorum for the purposes of conducting the business thereof. Each member of the Board shall serve without compensation.

Sec. ##. Powers and Duties of a Fair Hearing Review Board.

- (a) The Board shall have the following functions, powers, and duties:
 - (1) To establish and maintain its principal headquarters at the Office of Human Rights.
 - (2) To adopt an official seal.
 - (3) To hold hearings, subpoena witnesses, and compel their attendance, administer oaths, take the testimony of any person under oath and, in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the Board.
 - (4) The authority to appoint one (1) or more hearing officers as shall be necessary to carry out its functions and duties. The hearing officer shall have the same powers possessed by the Board to hold and conduct hearings. The hearing officer shall function under the supervision of the Board and shall make findings of fact and recommendations to the Board.
 - (5) To issue and to have served cease-and-desist orders and orders dismissing complaints and to pass upon compliance with such orders.
 - (6) To award damages as set forth in Section ##.
 - (7) The authority to request the assistance of the County Attorney in carrying out the purposes of this local law which includes the ability to seek temporary injunctive relief pending the completion of an investigation.
 - (8) To render each year to the Commission, the Office of Human Rights, and the Legislature a written report of all of its activities and its recommendations.

Sec. ##. Powers and Duties of the Tompkins County Human Rights Commission.

- (a) Tompkins County Human Rights Commission. — The Commission was established by the County Legislature in 1963. It has 15 members. The members are appointed by the County Legislature. The members should be individuals who are broadly representative of the diverse population of the County. Each member serves a three-year term. The members of the Commission serve without compensation.
- (b) The Commission shall recruit and recommend to the Legislature the three (3) members of a Fair Hearing Review Board (Board) to consider and decide each complaint that the Office of Human Rights (Office) certifies.
- (c) Commission members shall not engage in or encourage conduct or programming that conflicts, detracts, or interferes with the exercising of the powers and duties of the Board or Office as provided for in this local law
- (d) This local law shall not affect any powers previously granted to the Commission under the County Charter or any other relevant enabling statute.

Section ##. Administrative Procedure — Preliminary Matters

- (a) Charge — Filing.
 - (1) A charge alleging a discriminatory practice under this local law shall be in writing and signed under oath or affirmation by or on behalf of a charging party before any person authorized to administer oaths. The charge shall describe the discriminatory practice complained of and

should include a statement of the dates, places and circumstances, and the persons responsible for such acts and practices. Upon the filing of a charge alleging a discriminatory practice, the Director shall cause to be served upon the charging party a written notice acknowledging the filing, and notifying the charging party of the time limits and choice of forums provided in this local law.

- (2) Whenever charges are made on behalf of a person claiming to be aggrieved, the person making the charge must provide the Director with the name, address and telephone number of the individual on whose behalf the charge is made. Thereafter, the Director shall verify the authorization of such charge by the person on whose behalf the charge is made and upon the request of such person may keep his or her identity confidential.
 - (3) A charge shall not be rejected as insufficient because of failure to include all required information so long as it substantially satisfies the informational requirements necessary for processing.
 - (4) A charge alleging a discriminatory practice or pattern of discriminatory practices under this local law may also be filed by the Director whenever the Director has reason to believe that any person has been engaged or is engaging in a discriminatory practice under this local law.
 - (5) Testing and corroboration. — If the Director decides to corroborate the complaint by testing, the Director must provide the copy or synopsis to the respondent promptly after completion of the testing. The Director may also initiate or corroborate complaints on the basis of testing carried out by the Office's staff, contractors, or volunteers authorized by the Director, or his or her designees.
- (b) Time for Filing Charges — Any complaint must be filed with the Director within one (1) year after the alleged discriminatory act or practice. If those acts or practices are continuing in nature, the complaint must be filed within one year after the most recent act or practice. Filing with any federal or state agency charged with civil rights enforcement constitutes a filing under this local law.
- (c) Charge — Amendments.
- (1) The charging party or the Director may amend a charge:
 - (A) To cure technical defects or omissions;
 - (B) To clarify allegations made in the charge;
 - (C) To add allegations related to or arising out of the subject matter set forth or attempted to be set forth in the charge; or
 - (D) To add or substitute as a respondent a person who was not originally named as a respondent, but who is, during the course of the investigation, identified as a respondent. For jurisdictional purposes, such amendments shall relate back to the date the original charge was first filed.
 - (2) The charging party may amend a charge to include allegations of retaliation arising after the filing of the original charge. Such amendment must be filed within one (1) year after the occurrence of the retaliation and prior to the Director's issuance of findings of fact and determination with respect to the original charge. Such amendments may be made at any time during the investigation of the original charge so long as the Director will have adequate time to investigate the additional allegations and the parties will have adequate time to present the Director with evidence concerning the additional allegations before the issuance of findings of fact and a determination.
 - (3) When a charge is amended to add or substitute a respondent, the Director shall serve upon the new respondent:
 - (A) The amended charge;
 - (B) The notice required under Section ##; and
 - (C) A statement of the basis for the Director's belief that the new respondent is properly

named as a respondent. For jurisdictional purposes, amendment of a charge to add or substitute a respondent shall relate back to the date the original charge was first filed.

(d) Notice of Charge.

- (1) The Director shall promptly, and in any event within twenty (20) days of filing of the charge, cause to be served on or mailed, by certified mail, return receipt requested, to the respondent, a copy of the charge along with a notice advising the respondent of respondent's procedural rights and obligations under this local law. The Director shall promptly make an investigation of the charge.
- (2) The investigation shall be directed to ascertain the facts concerning the discriminatory practice alleged in the charge, and shall be conducted in an objective and impartial manner.
- (3) During the investigation, the Director shall consider any statement of position or evidence with respect to the allegations of the charge which the charging party or the respondent wishes to submit, including the respondent's answer to the charge. The Director shall have authority to sign and issue subpoenas requiring the attendance and testimony of witnesses; the production of evidence including but not limited to books, records, correspondence or documents in the possession or under the control of the person subpoenaed; access to evidence for the purpose of examination and copying; and conduct discovery procedures which may include the taking of interrogatories and oral depositions.
- (4) The Director may require a fact finding conference or participation in another process with the respondent and any of respondent's agents and witnesses and charging party during the investigation in order to define the issues, determine which elements are undisputed, resolve those issues which can be resolved, and afford an opportunity to discuss or negotiate settlement. Parties may have their legal counsel present if desired.
- (5) Witnesses summoned by a subpoena under this local law shall be entitled to the same witness and mileage fees as witnesses in proceedings in New York State Supreme Court. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Office.

(e) Investigation of Charges. — The following procedure shall apply to the investigation of charges of discriminatory practices filed under this local law:

- (1) A respondent may file with the Director an answer to the charge no later than twenty (20) days after receiving notice of the charge.
- (2) The Director shall commence investigation of the charge within thirty (30) days after the filing of the charge. An investigation must be completed within one hundred (100) days, except under special circumstances which must be documented and conveyed to the parties. If the Director is unable to complete the investigation within one hundred (100) days after the filing of the charge, the Director shall notify the charging party and the respondent of the reasons therefor. The Director shall make final administrative disposition of a charge within one (1) year of the date of filing of the charge, unless it is impracticable to do so. If the Director is unable to make a final administrative disposition within one (1) year of the filing of the charge, the Director shall notify the charging party and the respondent of the reasons therefor.
- (3) If the Director determines that it is necessary to carry out the purposes of this local law, the Director may, in writing, request the County Attorney to seek prompt judicial action for temporary or preliminary relief to enjoin any discriminatory practice pending final disposition of a charge.
- (4) The Director and Office staff must not disclose any information gathered during the investigation, including the parties' identities, except that:
 - (A) Any information may be released at any time if the release has been agreed to in writing by both the complainant and the respondent.

- (B) The identity of the complainant may be disclosed to the respondent at any time.
 - (C) If the Director certifies a complaint to the Board, any information may be released unless the Fair Hearing Review Board grants a private hearing before the board or a hearing examiner.
 - (D) After the Director certifies a case to the Board, documents or materials gathered during the investigation must be available to the parties, except that any investigatory materials that the Board, Fair Hearing Review Board, hearing examiner, or Director determines are privileged or confidential and would not be used at a hearing must not be released to any party.
- (f) Conciliation and Investigative Reports.
- (1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Director, the Director shall, to the extent feasible, engage in conciliation with respect to such complaint.
 - (A) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Director.
 - (B) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.
 - (C) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Director determines that disclosure is not required to further the purposes of this title.
 - (D) Failure to comply with conciliation agreement. Whenever the Director has reasonable cause to believe that a respondent has breached a conciliation agreement, the Director shall refer the matter to the County Attorney with a recommendation that a civil action be filed for the enforcement of such agreement.
 - (E) Prohibitions and requirements with respect to disclosure of information —
 - i. Nothing that transpires during the conciliation process, whether successful or unsuccessful, may be publicly disclosed or used in subsequent proceedings.
 - ii. Notwithstanding paragraph (1), the Director shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Director's investigation, information derived from an investigation and any final investigative report relating to that investigation.
 - (2) At the end of each investigation under this section, the Director shall prepare a final investigative report containing —
 - (A) The names and dates of contacts with witnesses;
 - (B) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
 - (C) A summary description of other pertinent records;
 - (D) A summary of witness statements; and
 - (E) Answers to interrogatories.
 - (3) A final report under this paragraph may be amended if additional evidence is later discovered.
- (g) Findings of Fact and Determination of Reasonable Cause or No Reasonable Cause.
- (1) The Director must determine, based on the investigation, whether reasonable grounds exist to believe that a violation of this local law occurred.
 - (2) The results of the investigation shall be reduced to written findings of fact and a determination shall be made by the Director that there is or is not reasonable cause for believing that a discriminatory practice has been or is being committed, which determination shall also be in writing and issued with the written findings of fact.

- (3) The findings of fact and determination shall be mailed promptly to the respondent and charging party.
 - (4) Once issued to the parties, the Director's findings of fact, determination, and order may not be amended or withdrawn except upon the agreement of the parties or in response to an order by the Board after an appeal taken pursuant to Section ##; provided, that the Director may correct clerical mistakes or errors arising from oversight or omission upon the request from a party or upon the Director's own discretion.
- (h) Determination of No Reasonable Cause — Appeal From and Dismissal.
- (1) If the Director determines that no reasonable cause exists to believe that a discriminatory practice has occurred or is about to occur, the Director shall promptly dismiss the complaint. The Director shall make public disclosure of each such dismissal.
 - (2) If a determination is made that there is no reasonable cause for believing a discriminatory practice under this local law has been committed, the charging party shall have the right to appeal such determination to the Board within thirty (30) days of the date the determination is signed by the Director by filing a written statement of appeal with the Board. The Board shall promptly deliver a copy of the statement to the Director and respondent and shall promptly consider and act upon such appeal by either affirming the Director's determination or remanding it to the Director with appropriate instructions. In the event no appeal is taken or such appeal results in affirmance or if the Board has not decided the appeal within the sixty (60) days allotted, the determination of the Director shall be final and the charge deemed dismissed. Any party aggrieved by the final dismissal may appeal the order on the record to an appropriate court.
- (i) Determination of Reasonable Cause — Conciliation and Settlement.
- (1) If a determination is made that reasonable cause exists to believe that a discriminatory practice has occurred, the Director shall endeavor to eliminate the discriminatory practice by conference, conciliation and persuasion. Conditions of settlement may include (but are not limited to) the elimination of the discriminatory practice, refunds or credits, reinstatement to tenancy, affirmative recruiting or advertising measures, payment of actual damages, damages for loss of the right to be free from discrimination, attorney's fees or such other remedies that will effectuate the purposes of this local law, including action which could be ordered by a court. In charges alleging a discriminatory practice, filed under this local law, the Director may also require payment of a civil penalty, as set forth in Section ##.
 - (2) Any settlement or conciliation agreement shall be an agreement between the charging party and the respondent and shall be subject to the approval of the Director. An order shall then be entered by the Director setting forth the terms of the agreement. Copies of such order shall be delivered to all affected parties.
 - (3) If conciliation is not successful and no agreement can be reached, the Director shall issue a written finding to that effect and furnish a copy of the finding to the charging party and to the respondent. Such a finding —
 - (A) Shall consist of a short and plain statement of the facts upon which the Director has found reasonable cause to believe that a discriminatory practice has occurred or is about to occur;
 - (B) Shall be based on the final investigative report; and
 - (C) Need not be limited to the facts or grounds alleged in the complaint filed under Section ##;
 - (D) Shall be delivered to the charging party and to the respondent.
 - (4) Upon issuance of the finding, the Director shall promptly cause to be delivered the entire investigatory file, including the charge and any and all findings made, to the Board for further proceedings and hearing under this local law pursuant to Section ##.

- (5) If the Director determines that the matter involves the legality of any other federal, state or local law, the Director shall immediately refer the matter to the County Attorney for appropriate action, instead of issuing a charge.

Section ##. Administrative Procedure — Complaint and Hearing.

- (a) Following submission of the investigatory file to the Board, the Director shall prepare a complaint against such respondent relating to the charge and facts discovered during the investigation thereof and prosecute the same in the name and on behalf of the County at a hearing therefor before the Board sitting alone or with a Hearing Examiner as provided in this local law and to appear for and represent the interests of the County at all subsequent proceedings.
- (b) The complaint shall be served on respondent in the usual manner provided by law for service of complaints and filed with the Board. A copy of such complaint shall be furnished charging party.
- (c) Within twenty (20) days of the service of such complaint upon it, the respondent shall file its answer with the Board and serve a copy of the same on the Director.
- (d) Upon the filing of the complaint, the Board shall promptly establish a date for the hearing of such complaint and give notice thereof to the Director, the County Attorney, the complainant, and respondent, and shall thereafter hold a public hearing on the complaint, which hearing shall commence no earlier than ninety (90) days nor later than one hundred twenty (120) days from the filing of the complaint, unless otherwise ordered by the Board.
- (e) After the filing of a complaint with the Board, it may be amended only with the permission of the Board, which permission shall be granted when justice will be served thereby and all parties are allowed time to prepare their case with respect to additional or expanded charges which they did not and could not have reasonably foreseen would be in issue at the hearing.
- (f) The hearing shall be conducted by the Board and/or a hearing examiner appointed by the Board from a list approved by the Office, sitting alone or with the Board. Such hearings shall be conducted in accordance with written rules and procedures consistent with this local law.
- (g) If a Hearing Examiner is appointed, it shall be done within thirty (30) days after notice of the date of hearing from the Board.
- (h) Rights of Parties. — At a hearing under this local law, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence shall apply to the presentation of evidence in such hearing as they would in a civil action in a U.S. district court.
- (i) A court-reporting stenographer shall be present at all hearings.
- (j) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain a fair hearing and complete record.
- (k) Resolution of Charge. — Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

Section ##. Administrative Decision and Order.

- (a) Within thirty (30) days after conclusion of the hearing, the chairperson of the Board at the hearing (or the Examiner as the case may be) shall prepare a written decision and order. The final decision shall be filed as a public record with the County Clerk, and copies thereof mailed to each party of record, the Director, the County Attorney.
- (b) Such decision shall contain a brief summary of the evidence considered and shall contain findings of fact, conclusions of law upon which the decision is based, and an order detailing the relief deemed appropriate, together with a brief statement of the reasons therefor.
- (c) In the event the Board (or a majority of the panel composed of the Examiner and Board), determines that a respondent has committed a discriminatory practice under this local law, the Board (or panel majority) may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice, effectuate the purpose of this local law, and secure compliance therewith. An order may include the requirement for a report on the matter of compliance.
- (d) Any person aggrieved by a final order of the Board (or panel majority) may appeal the order on the record to an appropriate court.
- (e) The Board and in the performance of its functions may enlist the aid of all departments of County government, and all said departments are directed to fully cooperate therewith.

Section ##. Remedies and Civil Penalties.

- (a) Damages and other relief for complainant. — After finding a violation of this local law, the Board may order the payment of damages (other than punitive damages) and any other relief that the law and the facts warrant, such as:
 - (1) Compensation for:
 - (A) Reasonable attorney's fees;
 - (B) Property damage;
 - (C) Personal injury;
 - (D) Unreimbursed travel or other reasonable expenses;
 - (E) Damages not exceeding \$50,000 for humiliation and embarrassment, based on the nature of the humiliation and embarrassment, including its severity, duration, frequency, and breadth of observation by others;
 - (F) Financial losses resulting from the discriminatory act or; and
 - (G) Interest on any damages from the date of the discriminatory act or violation, as provided in subsection (c);
 - (2) Equitable relief to prevent discrimination or a violation of this local law;
 - (3) Consequential damages, such as lost wages from employment discrimination or higher housing costs from housing discrimination, for up to 2 years after the violation, not exceeding the actual difference in expenses or benefits that the complainant realized while seeking to mitigate the consequences of the violation (such as income from alternate employment or unemployment compensation following employment discrimination); and
 - (4) Any other relief that furthers the purposes of this local law, or is necessary to eliminate the effects of any discrimination prohibited under it.
 - (5) Interim relief. — At any time after a complaint has been filed, the Board, a hearing examiner, or the Director may direct the County Attorney to seek any appropriate legal relief, such as a

temporary restraining order or a preliminary injunction, to preserve the status quo or prevent irreparable harm.

(b) Civil penalties. —

(1) In addition to any damages awarded to any person under this local law, the Board may require any person, except the County, who has violated this local law to pay to the County as a civil penalty:

(A) For each violation involving discrimination in housing:

(i) Up to \$10,000, if no court or administrative agency has found that the respondent committed any previous discriminatory act or practice involving discrimination in housing;

(ii) Up to \$25,000, if any court or administrative agency has found that the respondent committed a previous act or practice involving discrimination in housing during the five (5) years before this complaint was filed with the Office; and

(iii) Up to \$50,000, if any court or administrative agency has found that the respondent committed two (2) or more previous acts or practices involving discrimination in housing during the seven (7) years before this complaint was filed with the Office;

(B) For each violation involving discrimination in employment or public accommodations, up to \$10,000;

(C) For any other violation, \$1,000.

(2) When imposing a civil penalty, the Board must consider:

(A) Any prior findings of discrimination;

(B) The willfulness of the discrimination act; and

(C) The severity of the complainant's injury.

(c) Interest. — The Board may order the respondent to pay to the complainant interest on a damage award at six (6) percent per year of any money that was unavailable to the complainant as a result of the act of discrimination, from the date of the discriminatory. After judgment, the rate of interest on the judgment is ten (10) percent per year.

Section ##. Enforcement of Administrative Orders.

(a) In any case in which a final order of the Director or of the Board directed to the County, or to any department, division, board or agency thereof, is not complied with, a copy of the order shall be transmitted to the County Administrator, who shall take appropriate action to secure compliance therewith.

(b) In the event that any final order of the Director or of the Board is not complied with, the Director or the Board, as the case may be, shall notify the County Attorney, who shall petition the appropriate court to secure enforcement of or compliance with the order, or to impose penalties as set forth in this local law, or both. The County Attorney shall certify and file with the court the final order sought to be enforced. The County Attorney shall cause a notice of the petition to be sent by certified mail to all parties or their representatives.

(c) If, within sixty (60) days after the date the Board's order concerning a discriminatory practice is entered, no petition has been filed under subsection (b) of this section by the County Attorney, any person entitled to relief under the final order may petition the appropriate court for a decree enforcing the order.

Section ##. Election of Civil Action in Cases of Discriminatory Practices.

- (a) Any person subjected to an act of discrimination under this local law may pursue a civil action under New York law.
- (b) Following the issuance of a finding of unsuccessful conciliation, any charging party on whose behalf the reasonable cause finding was made, or a respondent, may, with respect to a discriminatory practice, elect to have the claims on which reasonable cause was found decided in a civil action under this section in lieu of an administrative hearing under Sections ##. This election must be made not later than twenty (20) days after issuance of the finding of unsuccessful conciliation. The person making such election shall give notice of doing so to the Director and to all other charging parties and respondents to whom the charge relates.
- (c) If an election is made under subsection (b) of this section, the County Attorney may bring a civil action to enforce this local law. The County may recover costs and reasonable attorney's fees if the County substantially prevails in an enforcement action.
- (d) In a civil action under this section, if the court finds that a discriminatory practice has occurred or is about to occur, the court may grant any relief including but not limited to actual damages, injunctive or equitable relief, and any other appropriate remedy set forth by Section ##. The court may also assess a civil penalty as set forth in Section ##. If monetary relief is sought for the benefit of a person who could have intervened under subsection (a) of this section, but who did not intervene in the civil action, the court shall not award such relief if that person has not complied with discovery orders entered by the court.
- (e) In any proceeding under this section, the court may award attorney fees and costs to the prevailing party. Attorney fees and costs may be assessed against a person who intervenes by filing a notice of independent appearance in the civil action only to the extent that the intervening participation was frivolous or vexatious, or was for the purpose of harassment.

Section ##. Enforcement by Private Persons.

- (a) Any person who claims to have been injured by a discriminatory practice, or who believes that he or she will be injured by a discriminatory practice that is about to occur, may commence a civil action in the appropriate court of jurisdiction not later than three (3) year after the occurrence or the termination of an alleged discriminatory practice, whichever occurs last, to obtain appropriate relief with respect to such discriminatory practice.
- (b) The computation of such three-year period shall not include any time during which an administrative proceeding under this local law was pending with respect to a complaint or charge under this local law alleging a discriminatory practice based on the same facts or occurrences.
- (c) A complaint may be filed under this section whether or not an administrative charge has been filed under Section ##, and without regard to the status of such charge, but if a state or federal administrative agency has obtained a pre-finding or post-finding settlement or conciliation agreement with the consent of the charging party, no action may be filed under this section with respect to the alleged discriminatory practice which forms the basis for such complaint except for the purpose of enforcing the terms of such agreement.
- (d) No civil action may be commenced under this section with respect to an alleged discriminatory practice that forms the basis of a complaint if a hearing on the record has been commenced by the Board.

- (e) In a civil action under this section, if the court finds that a discriminatory practice has occurred or is about to occur, the court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate. The court may also award actual damages, including damages for humiliation and mental suffering, and any other appropriate remedy set forth in the federal or state law. The court may also allow reasonable attorney's fees and costs to the prevailing party.
- (f) Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a charge or civil action under this local law.
- (g) Upon timely application, the County Attorney may intervene in such civil action, if the County Attorney certifies that the case is of general public importance, and may obtain such relief as would be available in an action brought under Section ##.

Section ##. Unlawful Conduct and Penalties.

It is unlawful for any person to willfully engage in a discriminatory practice under this local law or willfully resist, prevent, impede or interfere with the Director, the Board, the Commission, or the County Attorney, in the performance of their duties under this local law, or to fail, refuse, or neglect to comply with any lawful order of the Director, the Board, or the County Attorney.

Section ##. Construction with Other Laws.

Nothing in this local law shall invalidate or restrict any right or remedy of any charging party or respondent under state or federal law nor preclude such party from seeking judicial review of any final administrative decision or order made under this local law.

Section ##. Cooperative Agreements.

Nothing in this local law shall be interpreted to prevent the receiving, referring, or other processing of complaints, in accordance with any cooperative agreement with the New York State Division of Human Rights or with other agencies concerned with the enforcement of laws against discrimination.

Section ##. Application to Pending Charges and Complaints.

The procedures for administration and enforcement under this local law shall apply to charges pending which have not had a date certain set for hearing as of the effective date of the local law codified in this local law. However, this section shall not be construed to invalidate any administrative action taken or determinations and orders made on pending charges because of the procedures provided by this local law.

DIVISION 1. DISCRIMINATION IN REAL ESTATE

Subdivision A: Discrimination in Housing

Section ##. Scope.

- (a) Discriminatory practices as defined in this subdivision are contrary to the public peace, health, safety, and general welfare and are prohibited by the County in the exercise of its police power.
- (b) Unless the context otherwise requires, "discriminatory practice" includes "housing discrimination."
- (c) Categories of protection provided under this subdivision include a person's age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, familial status, and any other state or federal protected status.

Section ##. Discriminatory Practices.

- (a) It is a discriminatory practice under this subdivision for any owner, assignee, real estate broker, real estate agent, salesperson or employee, or other person having the right to sell, rent, lease, sublease, assign, transfer, or otherwise dispose of real property, to discriminate by undertaking or refusing to sell, rent, lease, sublease, assign, transfer or otherwise deny to or withhold from any person or group of persons such real property, or refuse to negotiate for the sale, rental, lease, sublease, assignment or transfer of real property, or segregate the use thereof, or represent that such real property is not available for inspection, when in fact it is so available, or expel or evict an occupant from real property or otherwise make unavailable or deny a dwelling because of the person's age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status in the terms, conditions or privileges of the sale, rental, lease, sublease, assignment, transfer or other disposition of any such real property, including but not limited to the setting of rates for rental or lease, or establishment of damage deposits, or other financial conditions for rental or lease, or in the furnishing of facilities or services in connection therewith.
- (b) It is a discriminatory practice under this subdivision to unreasonably prohibit modifications needed by a tenant with a disability. Whether or not the landlord permits tenants in general to make alterations or additions to a structure or fixtures, it is a discriminatory practice for a landlord to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy any dwelling, or to refuse to allow a person to make alterations or additions to existing premises occupied or to be occupied by a person with a disability, which are necessary to make the rental property accessible by persons with disabilities, under the following conditions:
 - (1) The landlord is not required to pay for the alterations, additions, or restoration.
 - (2) The landlord may reserve the right to approve the design, quality, and construction of the alterations or additions in order to minimize damage to the building and enforce standards of quality and architectural compatibility.
 - (3) The landlord may, where it is reasonable to do so, condition permission for modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

- (c) It is a discriminatory practice under this subdivision for any person to design a building or structure that does not conform with the Federal Fair Housing Act as amended, 42 U.S.C. Section 3601 et seq., the New York State Uniform Fire Prevention and Building Code, any other applicable federal, state, or local laws pertaining to access by persons with disabilities, or any rules or regulations promulgated thereunder. Whenever the requirements of the applicable laws shall differ, those which require greater accessibility for persons with disabilities shall govern.

Section ##. Retaliation, Harassment, or Coercion.

- (a) It is a discriminatory practice under this subdivision for any person to:
 - (1) Aid, abet, incite, compel, or coerce the doing of any act defined in this subdivision as a discriminatory practice; or to intimidate, harass, retaliate, obstruct or discriminate against a person in any manner because such person has complied with or proposes to comply with provisions of this subdivision or has filed a charge or complaint, has testified, or has assisted in any proceeding under this subdivision, or any order issued thereunder; or to attempt, either directly or indirectly, to commit any act defined in this subdivision to be a discriminatory practice; or to apply any economic sanctions or to deny membership privileges because of compliance with the provisions of this subdivision; or
 - (2) Coerce, intimidate, threaten, or otherwise interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected under this subdivision.
- (b) Any discriminatory practice under this subdivision which has the purpose or effect of denying a person the right to be free from discrimination in housing practices or the right to quiet or peaceful possession or enjoyment of real property, interfering with a person's compliance with the provisions of this subdivision prohibiting unfair housing practices, or interfering with a person's filing of a charge or assisting in any proceeding relating to an unfair housing practice under this subdivision, is an unfair housing practice.

Section ##. Refusal or Failure to List or Show Property.

- (a) It is a discriminatory practice under this subdivision for any real estate broker or real estate agent, salesperson or employee to, because the age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status of an occupant, purchaser, prospective occupant, or prospective purchaser:
 - (1) Refuse or intentionally fail to list or discriminate in listing real property for sale, rent, lease or sublease;
 - (2) Refuse or intentionally fail to show a prospective occupant real property listed for sale, rental, lease or sublease;
 - (3) Refuse or intentionally fail to accept and/or transmit to an owner any reasonable offer to purchase, lease, rent or sublease real property.

Section ##. Discrimination in Provision of Brokerage Services.

- (a) It is a discriminatory practice under this subdivision to deny any person access to or membership or participation in, any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in terms or conditions of such access, membership, or participation, on account of

age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status.

Section ##. Discrimination in Real Estate-Related Transactions.

- (a) It is a discriminatory practice for any lender, or any agent or employee thereof, to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, or maintenance of any real property, or any other person whose business includes engaging in real estate-related transactions, to —
 - (1) Discriminate against any person, prospective occupant or tenant of real property in the granting, withholding, extending, making available, modifying or renewing, or in the rates, terms, conditions or privileges of, any such financial assistance, or in the extension of services in connection therewith; or
 - (2) Use any form of application for such financial assistance or make any record of inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination because age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status, unless required or authorized by local, state or federal laws or agencies for the purpose of preventing discrimination in real property; provided that, nothing in this provision shall prohibit any party to a credit transaction from requesting designation of marital status for the purpose of considering application of community property law to the individual case or from taking reasonable action thereon or from requesting information regarding age, or familial status when such information is necessary to determine the applicant's ability to repay the loan.
 - (3) Appraisal Exemption — nothing in this subdivision prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status.

Section ##. Unfair Inquiries or Advertisements.

- (a) It is a discriminatory practice for any owner, real estate agent, salesperson or employee, real estate broker, or any other person, to —
 - (1) Require any information, make or keep any record, or use any form of application containing questions or inquiries concerning age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status in connection with the sale, rental, lease or sublease of any real property unless used solely:
 - (A) For making reports required by agencies of the federal, state, or local government for the purposes of preventing and eliminating discrimination or of overcoming its effects or for other purposes authorized by federal, state, or local agencies or laws or rules adopted thereunder,
 - (B) As to "marital status," for the purpose of determining applicability of community property law to the individual case, and
 - (C) As to "age," for the purpose of determining that the applicant has attained the age of majority, or in the case of housing exclusively for older persons as described in Section ##, for the purpose of determining the eligibility of the applicant;

- (2) Publish, circulate, issue or display or cause to be published, circulated, issued or displayed, any communication, notice, advertisement, or sign of any kind relating to the sale, rental, lease, sublease, assignment, transfer, or listing of real property which indicate any preference, limitation, or specification based age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status.

Section ##. Unfair Inducement to Sell or Rent — Blockbusting; Steering Persons to Particular Areas.

- (a) It is a discriminatory practice for any owner, real estate agent, salesperson or employee, real estate broker, or any other person, to, for profit:
 - (1) Promote, induce, or attempt to promote or induce any person to sell or rent any real property by representation regarding the entry or prospective entry into the neighborhood or area of a person or persons of a particular age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status;
 - (2) Show or otherwise take any action, the design or effect of which is to steer a person or persons to any section of the City or to particular real property in a manner tending to segregate or maintain segregation on the basis of age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status.

Section ##. Denial of Right Granted Under this Subdivision.

- (a) It is a discriminatory practice under this subdivision for any person, whether or not acting for profit, to harass, intimidate, or otherwise abuse or discriminate against any person or person's friends or associates because of age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status with the purpose or effect of denying to such person the rights granted in this subdivision or the right to quiet or peaceful possession or enjoyment of any real property.
- (b) Any discriminatory practice under this subdivision which has the purpose or effect of denying a person the right to be free from discrimination in housing practices or the right to quiet or peaceful possession or enjoyment of real property is an unfair housing practice.

Section ##. Exemptions.

- (a) Nothing in this subdivision shall:
 - (1) Apply to the renting, subrenting, leasing, or subleasing of a single-family dwelling, wherein the owner or person entitled to possession thereof maintains a permanent residence, home, or abode;
 - (2) Be interpreted to prohibit any person from making a choice among prospective purchasers or tenants of real property on the basis of factors other than age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status where such factors are not designed, intended, or used to discriminate;
 - (3) Prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion,

- or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin;
- (4) Prohibit any person from limiting the rental or occupancy of housing accommodations in any YWCA, YMCA, sorority, fraternity, school or college dormitory, or similar residential hall to persons of one sex;
 - (5) Prohibit any person from limiting the rental or occupancy of housing accommodations to persons who are elderly or disabled in any housing facility designed, constructed or substantially rehabilitated and operated exclusively for older persons, as defined by the Federal Fair Housing Act, as amended, 42 U.S.C. Sec. 3607 (b)(1) through (4) as of the effective date of the local law codified in this local law, or for persons with disabilities;
 - (6) Require any person to rent or lease a housing accommodation to an unemancipated minor;
 - (7) Require any person to rent or lease a housing accommodation in violation of the New York State Uniform Fire Prevention and Building Code;
 - (8) Be construed to prohibit treating persons with disabilities more favorably than persons without disabilities;
 - (9) Be construed to protect criminal conduct;
 - (10) Prohibit any person from limiting the rental or occupancy of housing accommodations on the basis of conduct by an occupant or prospective occupant which involves the use of force or violence or advocacy directed to producing or inciting imminent force or violence to the person or property of the owner, manager, or other person having the right to sell, rent, lease, assign, transfer or otherwise dispose of the real property occupied or sought to be occupied.

Subdivision B: Discrimination in Commercial Real Estate

Section ##. Scope.

- (a) Discriminatory practices as defined in this subdivision are contrary to the public peace, health, safety, and general welfare and are prohibited by the County in the exercise of its police power.
- (b) Unless the context otherwise requires, "discriminatory practice" includes "commercial real estate discrimination."
- (c) Categories of protection provided under this subdivision include a person's age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, familial status, and any other state or federal protected status.

Section ##. Discriminatory Practices.

- (a) It shall be an unlawful discriminatory practice for a person, because of age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status to:
 - (1) Refuse or refuse to negotiate to sell, lease, sublease, rent, assign, or otherwise transfer commercial real estate;
 - (2) Represent that commercial real estate is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when it is available;
 - (3) Deny or withhold commercial real estate from any person;

- (4) Include in the terms, conditions, or privileges of any sale, lease, sublease, rental, assignment, or other transfer of commercial real estate any clause, condition, or restriction discriminating against any person in the use or occupancy of the real estate; or
 - (5) Discriminate in furnishing any facilities, repairs, improvements, or services, or in the terms, conditions, privileges, or tenure of occupancy.
- (b) It shall be an unlawful discriminatory practice for a lending institution, because of age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status to:
- (1) Discriminate in lending money, guaranteeing loans, accepting a deed of trust or mortgage, or otherwise making available funds to acquire, construct, alter, rehabilitate, repair, or maintain commercial real estate; or
 - (2) Discriminate in fixing the rates, terms, conditions, or provisions of financial assistance, or in extending service in connection with financial assistance.
- (c) It shall be an unlawful discriminatory practice for any owner, manager, real estate agent, salesperson or employee, real estate broker, or any other person, to publish, circulate, issue or display or cause to be published, circulated, issued or displayed, any communication, notice, advertisement, or sign of any kind relating to the sale, rental, lease, sublease, assignment, transfer, or listing of real property which indicate any preference, limitation, or specification based age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status.
- (d) It shall be an unlawful discriminatory practice for any owner, manager, real estate agent, salesperson or employee, real estate broker, or any other person, to —
- (1) Assist in, compel, or coerce any discriminatory practice prohibited by this subdivision,
 - (2) Obstruct or prevent enforcement or compliance with this subdivision, or
 - (3) Attempt directly or indirectly to commit any discriminatory practice.
- (e) It shall be an unlawful discriminatory practice for any owner, manager, real estate agent, salesperson or employee, real estate broker, or any other person, to —
- (1) Induce or attempt to induce, by direct or indirect methods, any person to transfer commercial real estate by representations regarding the existing or potential proximity of real estate owned, used, or occupied by any person of any particular age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status;
 - (2) Represent to any prospective purchaser or lessee that any commercial real estate in a particular area may undergo, is undergoing, or has undergone a change with respect to age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status of occupants of the area; or
 - (3) Place a sign or other display either purporting to offer for sale, lease, assignment, transfer, or other disposition, or tending to lead to the belief that a bona fide offer is being made to sell, lease, assign, transfer, or otherwise dispose of any commercial real estate that is not in fact available or offered for sale, lease, assignment, transfer, or other disposition, because of age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status.

- (f) It shall be an unlawful discriminatory practice for any owner, manager, real estate agent, salesperson or employee, real estate broker, or any other person, to retaliate against any person for —
 - (1) Lawfully opposing any discriminatory practice under this subdivision; or
 - (2) Filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this subdivision.

- (g) It shall be an unlawful discriminatory practice for any owner, manager, real estate agent, salesperson or employee, real estate broker, or any other person, to — because of age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, source of income, or familial status:
 - (1) Deny any other person access to or membership or participation in any multiple- listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of buying, selling, or renting commercial real estate; or
 - (2) Discriminate against any person in the terms or conditions of the access, membership, or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of buying, selling, or renting commercial real estate.

Sec. ##. Exemptions.

- (a) This subdivision does not apply to religious institutions or organizations or charitable or educational organizations operated, supervised, or controlled by religious institutions or organizations which give preference to members of the same religion in a real estate transaction, as long as membership in such religion is not restricted by race, color, sex, or national origin.

- (b) This subdivision does not prohibit the use of a logo or other means of advertising that any commercial real estate is suitable or adapted to use by persons with a disability.

- (c) In the case of age, the following is not an unlawful practice:
 - (1) Inquiring about a person's age to determine a pertinent element of credit-worthiness;
 - (2) Using empirically derived credit systems that consider age if such systems are based on statistically sound data;
 - (3) Offering credit life insurance or credit disability insurance, in conjunction with any mortgage loan, to a limited age group;
 - (4) Refusing to grant a mortgage loan to a person under the age of eighteen (18) years.

Sec. ##. Enforcement.

- (a) If the Director, with respect to a violation of this subdivision, (1) does not conciliate a complaint after the parties have, in good faith, attempted conciliation, (2) does not effect an assurance of discontinuance or settlement agreement, or (3) finds that a complaint is not susceptible of conciliation, in addition to the authority provided in Section ##, the Director may (1) transmit the matter to the County Attorney for appropriate legal action, or (2) advise the complainant of the complainant's right to take appropriate legal action.

- (b) Nothing in this subdivision prevents any person from exercising any right or seeking any remedy to which that person is otherwise entitled, or from filing any complaint with any other agency or court. If an action involving the same parties is pending before any other agency or court, the commission must advise the complainant to incorporate the allegations of the complaint in the previous action where appropriate.

DIVISION 2. DISCRIMINATION IN EMPLOYMENT

Section ##. Scope.

- (a) Discriminatory practices as defined in this subdivision are contrary to the public peace, health, safety, and general welfare and are prohibited by the County in the exercise of its police power.
- (b) Unless the context otherwise requires, "discriminatory practice" includes "employment discrimination."
- (c) Categories of protection provided under this subdivision include a person's age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, predisposing genetic disposition, and any other state or federal protected status.

Sec. ##. Discriminatory Practices.

- (a) A person must not because of the age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, or predisposing genetic disposition of a qualified individual, or because of any reason that would not have been asserted but for age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, or predisposing genetic disposition —
 - (1) For an employer:
 - (A) Fail or refuse to hire, fail to accept the services of, discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment; or
 - (B) Limit, segregate, or classify employees in any way that would deprive or tend to affect adversely any individual's employment opportunities or status as an employee;
 - (2) For an employment agency: fail or refuse to refer for employment, assign job classifications to, classify or refer for employment, or otherwise discriminate against, any individual;
 - (3) For a labor organization:
 - (A) Exclude or expel from its membership, or otherwise discriminate against any individual;
 - (B) Limit, segregate, or classify its membership or classify, or fail or refuse to refer for employment, any individual in any way that would deprive or tend to deprive any individual of equal employment opportunities, or affect adversely the individual's employment opportunities or status as an employee or as an applicant for employment; or
 - (C) Cause or attempt to cause an employer to discriminate against an individual in violation of this division; or
 - (4) For an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training programs: discriminate against any individual in admission to, or employment in, any program established to provide apprenticeship or other training.
- (b) It shall be an unlawful discriminatory practice under this division for an employer, licensing agency, employment agency or labor organization to refuse to provide reasonable accommodations to the known disabilities of an employee, prospective employee or member in connection with a job or occupation sought or held or participation in a training program.

- (1) Nothing contained in this subdivision shall be construed to require provision of accommodations which can be demonstrated to impose an undue hardship on the operation of an employer's, licensing agency's, employment agency's or labor organization's business, program or enterprise. In making such a demonstration with regard to undue hardship the factors to be considered include:
 - (A) The overall size of the business, program or enterprise with respect to the number of employees, number and type of facilities, and size of budget;
 - (B) The type of operation which the business, program or enterprise is engaged in, including the composition and structure of the workforce; and
 - (C) The nature and cost of the accommodation needed.

- (c) It shall be an unlawful discriminatory practice for an employer, licensing agency, employment agency or labor organization to:
 - (1) Retaliate against any person for:
 - (A) Lawfully opposing any discriminatory practice prohibited under this division; or
 - (B) Filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this division;
 - (2) Assist in, compel, or coerce any discriminatory practice prohibited under this division;
 - (3) Obstruct or prevent enforcement or compliance with this division; or
 - (4) Attempt directly or indirectly to commit any discriminatory practice prohibited under this division.

- (d) It shall be an unlawful discriminatory practice under this division for an employer, licensing agency, employment agency or labor organization to print, circulate, publish, display, or cause to be printed, circulated, published, or displayed any notice or advertisement indicating any preference, limitation, or specification based age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, or predisposing genetic disposition relating to:
 - (A) Employment by an employer;
 - (B) Membership in or any classification or referral for employment by a labor organization; or
 - (C) Any classification or referral for employment by an employment agency.
 - (D) This subsection does not prohibit a notice or advertisement from indicating a preference, limitation, or specification that is a bona fide occupational qualification for employment reasonably necessary to the normal operation of the particular business or enterprise.

- (e) It shall be an unlawful discriminatory practice for any person engaged in any activity covered by this division to discriminate against a blind person, a hearing impaired person, or a person with a disability on the basis of his or her use of a service dog.

- (f) It shall be an unlawful discriminatory practice for an employer to:
 - (1) Engage in unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature to a domestic worker when:
 - (A) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - (B) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - (C) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or offensive working environment.

- (2) Subject a domestic worker to unwelcome harassment based on gender, race, creed or national origin, where such harassment has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or offensive working environment.
- (g) It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs to:
 - (1) 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;
 - (2) Deny to or withhold from any person because of race, creed, color, national origin, sexual orientation, military status, sex, age, disability, gender identity/expression, or marital status, the right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, executive training program, or other occupational training or retraining program; or
 - (3) 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 age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, or predisposing genetic disposition.

Sec. ##. Exemptions.

- (a) Notwithstanding any other provision of this division, it is not an unlawful employment practice for a religious corporation, association, or society to hire and employ employees of a particular religion.
- (b) Nothing in this division shall create an employment relationship between an employer and an intern for the purposes of Articles 6, 7, 19, or 19 of New York State Labor Law.

Sec. ##. Notice to be Posted; Reports and Records.

- (a) Every employer, employment agency, and labor organization in Tompkins County must keep posted in conspicuous places on its premises, where notices to employees, applicants for employment, and membership are customarily posted, a notice in the form and language approved by the Office, summarizing the pertinent provisions of this division and how to file a complaint.
- (b) Every employer, employment agency, and labor organization, subject both to this division in Tompkins County and to title VII of the Civil Rights Act of 1964, must furnish if requested by the Office all reports that are required by the Equal Employment Opportunity Commission established under the Civil Rights Act of 1964.
- (c) Every employer, employment agency, and labor organization subject to this division must preserve all regularly kept personnel or employment records (including application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff or termination rates of pay or other terms of compensation and selection for training or apprenticeship) for the term of the employee's employment and a period of six (6) months following termination of employment. Where a charge of discrimination has been filed against an employer, employment agency, or labor organization under this division, the respondent must preserve all personnel records, including employment applications, relevant to the charge or action until final disposition of the charge or action.

Sec. ##. Reports and Records of Person Under Investigation.

- (a) In connection with any investigation of a complaint filed under this division, the Director or the Director's designee may:
 - (1) Request the reports and relevant records of any person being investigated or proceeded against that:
 - (A) May relate to employment practices prohibited by this division; and
 - (B) Are relevant to matters raised in the complaint or similar matters; and
 - (2) Interview any persons necessary in carrying out the purposes of this division.

Subdivision C: Arrest and Prior Conviction Discrimination in Employment

Section ##. Scope.

- (a) Discriminatory practices as defined in this subdivision are contrary to the public peace, health, safety, and general welfare and are prohibited by the County in the exercise of its police power.
- (b) Unless the context otherwise requires, "discriminatory practice" includes "arrest record and/or prior conviction discrimination."
- (c) Categories of protection provided under this subdivision include a person's arrest and conviction record.

Section ##. Definitions.

- (a) "Applicant" means any person considered or who requests to be considered for employment or internship by an employer, vendor, or contractor.
- (b) "Employer" means any person who employs four or more individuals in the County, either for compensation or as a volunteer. Employer includes a person who recruits an individual in the County to apply for employment in the County or elsewhere.
- (c) "Employment" means any work for pay or for internship status, including temporary or seasonal work, contracted work, contingent work, and work through the services of a temporary, job placement, referral, or other employment agency, for any work or position for which the primary place of work is located within Tompkins County. "Employment" shall not, for the purposes of this subdivision, include employment by any government law enforcement agency or any position classified as a "police officer" or "peace officer" pursuant to New York State Criminal Procedure Law (CPL).
- (d) "Interview" means any direct contact by the employer with the applicant, whether in person or by telephone, to discuss the employment being sought or the applicant's qualifications.
- (e) "Prior conviction" means entry of a plea of guilty, or a verdict of guilty, for a misdemeanor or felony offense in this state or any other jurisdiction.
- (f) "Vendor" means any vendor, contractor, or supplier of goods or services to Tompkins County, including vendors located outside Tompkins County limits.

Section ##. Discriminatory Practices.

- (a) It shall be an unlawful discriminatory practice under this subdivision for any employer, including the County and any political subdivision thereof, to deny any license, employment, or internship to any individual by reason of his or her 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 or her having been convicted of one or more criminal offenses, when such denial is in violation of the provisions of Article 23-A of the New York State Correction Law. Further, there shall be a rebuttable presumption in favor of excluding from evidence the prior incarceration or conviction of any person, in a case alleging that the employer has been negligent in hiring or retaining an applicant, employee, or intern, or supervising a hiring manager, if after learning about an applicant or employee's past criminal conviction history, such employer has evaluated the factors set forth in CPL Section 752, and made a reasonable, good faith determination that such factors militate in favor of hire or retention of that applicant, employee, or intern.

- (b) It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any employer, including the County and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in CPL Section 160.50, or by a youthful offender adjudication, as defined in CPL Section 720.35, or by a conviction for a violation sealed pursuant to CPL Section 160.55, or by a conviction which is sealed pursuant to CPL Section 160.58, in connection with the licensing, employment or providing of credit or insurance to such individual; provided, further, that no person shall be required to divulge information pertaining to any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in CPL Section 160.50, or by a youthful offender adjudication, as defined in CPL Section 720.35, or by a conviction for a violation sealed pursuant to CPL Section 160.55, or by a conviction which is sealed pursuant to CPL Section 160.58.

- (c) It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, employer, agency, bureau, corporation or association located in Tompkins County, including the County, its vendors, and any political subdivision thereof, to make any inquiry regarding or pertaining to an applicant's prior criminal conviction on any initial employment application. Consideration of an applicant's prior criminal conviction(s) shall take place only after an employment application is submitted and after any initial employment interview.

- (d) It shall be an unlawful discriminatory practice under this division for an employer, licensing agency, employment agency or labor organization to print, circulate, publish, display, or cause to be printed, circulated, published, or displayed any notice or advertisement indicating any limitation based on arrest or conviction record relating to:
 - (A) Employment by an employer;
 - (B) Membership in or any classification or referral for employment by a labor organization;
or
 - (C) Any classification or referral for employment by an employment agency.
 - (D) This subsection does not prohibit a notice or advertisement from indicating a preference for applicants based on prior conviction record.

Section ##. Prior Conviction Screening Standards.

- (a) It shall be an unlawful discriminatory practice for the County, its vendors, and any employer located within County limits to make any inquiry regarding, or to require any person to disclose or reveal, any criminal conviction during the application process. The "application process" shall be deemed to begin when the applicant inquires about the employment sought and shall end when an employer has conducted an initial employment interview or made a conditional offer of employment.
- (b) If an employer does not conduct an interview, that employer must inform the applicant whether a criminal background check will be conducted before employment is to begin.
- (c) Any employer hiring for licensed trades or professions, including positions such as interns and apprentices for such licensed positions, may make an inquiry of applicants about prior criminal convictions if such inquiry is required by a licensing authority or by New York State or federal law.
- (d) Any employer hiring for positions where certain convictions are a bar to employment in that position under New York State or federal law shall not be prohibited from making inquiries about those convictions during the application process.
- (e) Any employer shall comply with Article 23-A of the New York State Correction Law and the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., when considering an applicant's prior criminal convictions in determining suitability for employment. In accordance with Article 23-A, nothing in this subdivision shall be construed to limit an employer's authority to withdraw conditional offers of employment for any lawful reason, including the determination that the candidate has a conviction that bears a direct relationship to the duties and responsibilities of the position sought, or that hiring would pose an unreasonable risk to property or to the safety of individuals or the general public.
- (f) In compliance with Executive Law Section 296, Subdivision 16 (NYS Human Rights Law), and the Family Court Act, employers are prohibited from asking at any time for applicants to disclose information about any arrest that resulted in a youthful offender adjudication pursuant to CPL Section 720.35; any arrest that was processed as a juvenile delinquency proceeding in Family Court; any arrest that resulted in a sealing pursuant to CPL Sections 160.50 or 160.55; any conviction that was sealed pursuant to CPL Section 160.58, unless said inquiry is specifically required or permitted by New York State or federal law.

Sec. ##. Exemptions.

- (a) The prohibitions of this subdivision shall not apply if the inquiries prohibited herein are specifically authorized by any other applicable law.
- (b) The provisions of this subdivision shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms, and other deadly weapons or in relation to an application for employment as a "police officer" or "peace officer" as those terms are defined in CPL Sections 1.20 or 2.10; provided further that the provisions of this subdivision shall not apply to an application for employment or membership in any law enforcement agency with respect to any arrest or criminal accusation which was followed by a youthful offender adjudication, as defined in CPL Section 720.35, or by a conviction for a violation sealed pursuant to CPL Section 160.55, or by a conviction which is sealed pursuant to CPL Section 160.58.

Sec. ##. Enforcement.

- (a) Any person aggrieved by a violation of this subdivision may commence a civil action or proceeding for injunctive relief, damages, or other appropriate relief in law or equity against any person or employer who violates this subdivision. In any such action or proceeding, the court may allow the party commencing such action or proceeding, if such party prevails, costs and reasonable attorney's fees as part of the relief granted.
- (b) Any action brought for violation of this subdivision must be commenced within one year after the alleged violation.
- (c) The remedies provided herein shall be separate and distinct from remedies provided in other laws, rules or regulations and shall not be construed by any court to be a prerequisite to an action or proceeding commenced pursuant to such other laws, rules or regulations. The provisions of this subdivision shall not be construed to diminish the rights of an applicant under any other law.
- (d) The County Attorney may, in his or her discretion, bring an action to restrain or prevent any violation of this subdivision or any continuance of any such violation, in any court of competent jurisdiction, and may further seek the imposition of the following penalties or a combination thereof:
 - (1) A penalty of \$500 for the first violation of this subdivision;
 - (2) A penalty of \$1,000 for each subsequent violation of this subdivision.

DIVISION 3. DISCRIMINATION IN PUBLIC ACCOMMODATIONS

Sec. ##. Scope.

- (a) Discriminatory practices as defined in this subdivision are contrary to the public peace, health, safety, and general welfare and are prohibited by the County in the exercise of its police power.
- (b) Unless the context otherwise requires, "discriminatory practice" includes "public accommodation discrimination."
- (c) Categories of protection provided under this division include a person's race, color, sex, marital status, creed, national origin, disability, military status, sexual orientation, gender identity/expression, and any other state or federal protected status.
- (d) In this division, "public accommodation" includes any service, program, or activity in the County offered to or used by the general public, either with or without charge.

Sec. ##. Discriminatory Practices.

- (a) It shall be an unlawful discriminatory practice for an owner, lessee, operator, manager, agent, or employee of any place of public accommodation to make any distinction with respect to any person based on race, color, sex, marital status, creed, national origin, disability, military status, sexual orientation, or gender identity/expression in connection with:
 - (1) Admission;
 - (2) Service or sales; or
 - (3) Price, quality, or use of any facility or service.

- (b) It shall be an unlawful discriminatory practice for an owner, lessee, operator, manager, agent, or employee of any place of public accommodation display, circulate or publicize or cause to be displayed, circulated or publicized, directly or indirectly, any notice, communication, or advertisement that states or implies:
 - (1) Any distinction in the availability of any facility, service, commodity, or activity related to the accommodation that would violate paragraph (a), or
 - (2) That the patronage or presence of any person is unwelcome, objectionable, unacceptable, or not desired or solicited on account of any person's race, color, sex, marital status, creed, national origin, disability, military status, sexual orientation, or gender identity/expression.
- (c) It shall be an unlawful discriminatory practice for an owner, lessee, operator, manager, agent, or employee of any place of public accommodation to retaliate against any person because that person:
 - (1) Lawfully opposed any discriminatory practice under this division; or
 - (2) Filed a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this division.
- (d) It shall be an unlawful discriminatory practice for an owner, lessee, operator, manager, agent, or employee of any place of public accommodation to:
 - (1) Assist in, compel, or coerce any discriminatory practice under this division;
 - (2) Obstruct or prevent enforcement or compliance with this division; or
 - (3) Attempt directly or indirectly to commit any discriminatory practice under this division.
- (e) It shall be an unlawful discriminatory practice for an owner, lessee, operator, manager, agent, or employee of any place of public accommodation to refuse to make any reasonable modification that would give a person with a disability equal opportunity to use and enjoy the public accommodation. Such discriminatory practices shall include:
 - (1) A refusal to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford facilities, privileges, advantages or accommodations to individuals with disabilities, unless such person can demonstrate that making such modifications would fundamentally alter the nature of such facilities, privileges, advantages or accommodations;
 - (2) A refusal to take such steps as may be necessary to ensure that no individual with a disability is excluded or denied services because of the absence of auxiliary aids and services, unless such person can demonstrate that taking such steps would fundamentally alter the nature of the facility, privilege, advantage or accommodation being offered or would result in an undue burden;
 - (3) A refusal to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and
 - (4) Where such person can demonstrate that the removal of a barrier under subparagraph (3) of this section is not readily achievable, a failure to make such facilities, privileges, advantages or accommodations available through alternative methods if such methods are readily achievable.
 - (A) "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:
 - (i) The nature and cost of the action needed under this division;

- (ii) The overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources or the impact otherwise of such action upon the operation of the facility;
 - (iii) The overall financial resources of the place of public accommodation; the overall size of the business of such a place with respect to the number of its employees; the number, type and location of its facilities; and
 - (iv) The type of operation or operations of the place of public accommodation, including the composition, structure and functions of the workforce of such place; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to such place.
- (B) "Auxiliary aids and services" include:
- (i) Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
 - (ii) Qualified readers, taped texts or other effective methods of making visually delivered materials available to individuals with visual impairments;
 - (iii) Acquisition or modification of equipment or devices; and
 - (iv) Other similar services and actions.

Section ##. Exemptions.

- (a) This division does not apply to accommodations that are distinctly private or personal.
- (b) Nothing in this division shall be construed to prevent the barring of any person, because of the sex of such person, from places of public accommodation, if the division grants an exemption based on bona fide considerations of public policy; nor shall this division apply to the rental of rooms in a housing accommodation which restricts such rental to individuals of one sex.

DIVISION 4: SPECIAL JURISDICTION DISCRIMINATION

Sec. ##. Scope.

- (a) Discriminatory practices as defined in this subdivision are contrary to the public peace, health, safety, and general welfare and are prohibited by the County in the exercise of its police power.

Sec. ##. Discriminatory Practices.

- (a) It shall be an unlawful discriminatory practice for any public school or private school, 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 4 of the New York State Real Property Tax Law to deny the use of its facilities to any person otherwise qualified, or to permit the harassment of any student or applicant, by reason of his or her race, color, creed, disability, national origin, sexual orientation, military status, sex, age, gender identity/expression, or marital status.

- (b) It shall be an unlawful discriminatory practice for any fire department or fire company therein, through any member or members thereof, officers, board of fire commissioners or other body or office having power of appointment of volunteer firefighters, directly or indirectly, by ritualistic practice, constitutional or by-law prescription, by tacit agreement among its members, or otherwise, to deny to any individual membership in any volunteer fire department or fire company therein, or to expel or discriminate against any volunteer member of a fire department or fire company therein, because of the age, creed, race, color, sex, sexual orientation, national origin, marital status, disability, military status, arrest record, conviction record, domestic violence victim status, gender identity/expression, or predisposing genetic disposition of such individual.