

# PROGRAM BILL #24

S. ....  
Senate  
.....

IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
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IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

**\*EXECLA\***  
(Relates to the provision of attorney's fees in cases of housing, employment or credit discrimination)

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Exec. atty's fees; housing discrim

### AN ACT

to amend the executive law, in relation to the provision of attorney's fees in cases of housing, employment or credit discrimination; to amend the executive law, in relation to the awarding of reasonable attorney's fees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

### IN SENATE

#### Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship of this proposal:

s20 Adams	s17 Felder	s63 Kennedy	s25 Montgomery	s23 Savino
s15 Addabbo	s02 Flanagan	s34 Klein	s54 Nozzolio	s29 Serrano
s11 Avella	s08 Fuschillo	s28 Krueger	s55 O'Brien	s51 Seward
s40 Ball	s59 Gullivan	s24 Lanza	s58 O'Mara	s09 Skelos
s42 Bonacic	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s04 Boyle	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s44 Breslin	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s38 Carlucci	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart-Cousins
s50 DeFrancisco	s60 Grisanti	s45 Little	s48 Ritchie	s46 Tkaczyk
s32 Diaz	s06 Hannon	s05 Marcellino	s33 Rivera	s53 Valesky
s18 Dilan	s36 Hassell-Thompson	s43 Marchione	s56 Robach	s57 Young
s31 Espaillat		s07 Martins	s19 Sampson	s03 Zeldin
s49 Farley	s27 Hoylman	s62 Maziarz	s10 Sanders	

### IN ASSEMBLY

#### Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the multi-sponsorship of this proposal:

a049 Abbate	a081 Dinowitz	a135 Johns	a133 Nojay	a140 Schimminger
a092 Abinanti	a147 DiPietro	a113 Jordan	a037 Nolan	a087 Sepulveda
a084 Arroyo	a115 Duprey	a094 Katz	a130 Oaks	a065 Silver
a035 Aubry	a004 Englebright	a074 Kavanagh	a069 O'Donnell	a027 Simanowitz
a120 Barclay	a054 Espinal	a142 Kearns	a051 Ortiz	a036 Simotas
a106 Barrett	a109 Fahy	a076 Kellner	a091 Otis	a104 Skartados
a060 Barron	a071 Farrell	a040 Kim	a132 Palmesano	a099 Skoufis
a082 Benedetto	a126 Finch	a131 Kolb	a088 Paulin	a022 Solages
a117 Blankenbush	a008 Fitzpatrick	a105 Lalor	a141 Peoples-Stokes	a114 Stec
a062 Borelli	a124 Friend	a013 Lavine		a110 Steck
a055 Boyland	a143 Gabryszak	a050 Lentol	a058 Perry	a079 Stevenson
a026 Braunstein	a095 Galef	a125 Lifton	a089 Pretlow	a127 Stirpe
a044 Brennan	a137 Gantt	a102 Lopez, P.	a073 Quart	a011 Sweeney
a119 Brindisi	a007 Garbarino	a123 Lupardo	a019 Ra	a112 Tedisco
a138 Bronson	a077 Gibson	a010 Lupinacci	a098 Rabbitt	a101 Tenney
a046 Brook-Krasny	a148 Giglio	a121 Magee	a012 Raia	a001 Thiele
a093 Buchwald	a080 Gjonaj	a129 Magnarelli	a006 Ramos	a061 Titone
a118 Butler	a066 Glick	a059 Maisel	a134 Reilich	a031 Titus
a103 Cahill	a023 Goldfeder	a064 Malliotakis	a078 Rivera	a146 Walter
a043 Camara	a150 Goodell	a030 Markey	a128 Roberts	a041 Weinstein
a145 Ceretto	a075 Gottfried	a090 Mayer	a056 Robinson	a020 Weisenberg
a033 Clark	a005 Graf	a108 McDonald	a068 Rodriguez	a024 Weprin
a047 Colton	a100 Gunther	a014 McDonough	a072 Rosa	a070 Wright
a032 Cook	a139 Hawley	a017 McKeivitt	a067 Rosenthal	a096 Zebrowski
a144 Corwin	a083 Heastie	a107 McLaughlin	a025 Rozic	a002
a085 Crespo	a003 Hennessey	a038 Miller	a116 Russell	a053
a122 Crouch	a028 Hevesi	a052 Millman	a149 Ryan	a086
a021 Curran	a048 Hikind	a015 Montesano	a009 Saladino	
a063 Cusick	a018 Hooper	a136 Morelle	a111 Santabarbara	
a045 Cymbrowitz	a042 Jacobs	a057 Mosley	a029 Scarborough	
a034 DenDekker	a097 Jaffee	a039 Moya	a016 Schimel	

1) Single House Bill (introduced and printed separately in either or both houses). Uni-Bill (introduced simultaneously in both houses and printed as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed copies of bill and 4 copies of memorandum in support (single house); or 4 signed copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. Subdivision 10 of section 297 of the executive law, as  
2 added by section 17 of part D of chapter 405 of the laws of 1999, is  
3 amended to read as follows:

4 10. With respect to all cases of housing discrimination and housing  
5 related credit discrimination [only] in an action or proceeding at law  
6 under this section or section two hundred ninety-eight of this article,  
7 the commissioner or the court may in its discretion award reasonable  
8 attorney's fees to any prevailing or substantially prevailing party; and  
9 with respect to a claim of employment or credit discrimination where sex  
10 is a basis of such discrimination, in an action or proceeding at law  
11 under this section or section two hundred ninety-eight of this article,  
12 the commissioner or the court may in its discretion award reasonable  
13 attorney's fees attributable to such claim to any prevailing party;  
14 provided, however, that a prevailing respondent or defendant in order to  
15 recover such reasonable attorney's fees must make a motion requesting  
16 such fees and show that the action or proceeding brought was frivolous;  
17 and further provided that in a proceeding brought in the division of  
18 human rights, the commissioner may only award attorney's fees as part of  
19 a final order after a public hearing held pursuant to subdivision four  
20 of this section. In no case shall attorney's fees be awarded to the  
21 division, nor shall the division be liable to a prevailing or substan-  
22 tially prevailing party for attorney's fees, except in a case in which  
23 the division is a party to the action or the proceeding in the divi-  
24 sion's capacity as an employer. In cases of employment discrimination,  
25 a respondent shall only be liable for attorney's fees under this subdivi-  
26 vision if the respondent has been found liable for having committed an  
27 unlawful discriminatory practice. In order to find the action or

1 proceeding to be frivolous, the court or the commissioner must find in  
2 writing one or more of the following:

3 (a) the action or proceeding was commenced, used or continued in bad  
4 faith, solely to delay or prolong the resolution of the litigation or to  
5 harass or maliciously injure another; or

6 (b) the action or proceeding was commenced or continued in bad faith  
7 without any reasonable basis and could not be supported by a good faith  
8 argument for an extension, modification or reversal of existing law. If  
9 the action or proceeding was promptly discontinued when the party or  
10 attorney learned or should have learned that the action or proceeding  
11 lacked such a reasonable basis, the court may find that the party or the  
12 attorney did not act in bad faith.

13 § 2. Paragraph c of subdivision 7 of section 296-a of the executive  
14 law, as amended by chapter 632 of the laws of 1976, is amended to read  
15 as follows:

16 c. If the superintendent finds that a violation of this section has  
17 occurred, the superintendent shall issue an order which shall do one or  
18 more of the following:

19 (1) impose a fine in an amount not to exceed ten thousand dollars for  
20 each violation, to be paid to the people of the state of New York;

21 (2) award compensatory damages to the person aggrieved by such  
22 violation;

23 (3) for a claim of sex discrimination only, award reasonable attor-  
24 ney's fees attributable to such claim to any prevailing party; provided,  
25 however, that a prevailing respondent or defendant in order to recover  
26 such reasonable attorney's fees must make a motion requesting such fees  
27 and show that the action or proceeding brought was frivolous. In no case  
28 shall attorney's fees be awarded to the department, nor shall the

1 department be liable to a prevailing party for attorney's fees. In order  
2 to find the action or proceeding to be frivolous, the superintendent  
3 must find in writing one or more of the following:

4 (a) the action or proceeding was commenced, used or continued in bad  
5 faith, solely to delay or prolong the resolution of the litigation or to  
6 harass or maliciously injure another; or

7 (b) the action or proceeding was commenced or continued in bad faith  
8 without any reasonable basis and could not be supported by a good faith  
9 argument for an extension, modification or reversal of existing law. If  
10 the action or proceeding was promptly discontinued when the party or  
11 attorney learned or should have learned that the action or proceeding  
12 lacked such a reasonable basis, the court may find that the party or the  
13 attorney did not act in bad faith.

14 (4) require the regulated creditor to cease and desist from such  
15 unlawful discriminatory practices;

16 [(4)] (5) require the regulated creditor to take such further affirma-  
17 tive action as will effectuate the purposes of this section, including,  
18 but not limited to, granting the credit which was the subject of the  
19 complaint.

20 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-  
21 sion, section or part of this act shall be adjudged by a court of compe-  
22 tent jurisdiction to be invalid, such judgment shall not affect, impair  
23 or invalidate the remainder thereof, but shall be confined in its opera-  
24 tion to the clause, sentence, paragraph, subdivision, section or part  
25 thereof directly involved in the controversy in which such judgment  
26 shall have been rendered. It is hereby declared to be the intent of the  
27 legislature that this act would have been enacted even if such invalid  
28 provisions had not been included herein.

1 § 4. This act shall take effect on the ninetieth day after it shall  
2 have become a law, and shall apply to actions commenced on or after such  
3 date.