

BILL TEXT:

STATE OF NEW YORK

3483

S. 1190

A.

2009-2010 Regular Sessions

SENATE - ASSEMBLY

January 27, 2009

IN SENATE -- Introduced by Sens. THOMPSON, KRUEGER,
ONORATO -- read
twice and ordered printed, and when printed to be
committed to the
Committee on Investigations and Government Operations

IN ASSEMBLY -- Introduced by M. of A. PEOPLES, DESTITO,
GOTTFRIED, SWEE-
NEY, KAVANAGH -- Multi-Sponsored by -- M. of A. ALFANO,
BOYLAND --
read once and referred to the Committee on Governmental
Operations

AN ACT to amend the executive law, in relation to institution
of court
actions under section 297 thereof

**The People of the State of New York, represented in Senate
and Assem-**
bly, do enact as follows:

1 Section 1. Subdivision 9 of section 297 of the executive
law, as
2 amended by section 16 of part D of chapter 405 of the laws
of 1999, is
3 amended to read as follows:
4 9. Any person claiming to be aggrieved by an unlawful
discriminatory
5 practice shall have a cause of action in any court of
appropriate juris-
6 diction for damages, including, in cases of housing
discrimination only,
7 punitive damages, and such other remedies as may be

appropriate, includ-

8 ing any civil fines and penalties provided in subdivision
four of this

9 section, unless such person had filed a complaint [~~hereunder~~]
pursuant

10 to this section or with any local commission on human
rights, or with

11 the superintendent pursuant to the provisions of section
two hundred

12 ninety-six-a of this [~~chapter,~~] article; provided that, where
the divi-

13 sion has dismissed such complaint on the grounds of
administrative

14 convenience, on the grounds of untimeliness, or on the
grounds that the

15 election of remedies is annulled, such person shall maintain
all rights

16 to bring suit as if no complaint had been filed with the
division and

17 may bring such suit within three years after any such
dismissal for

18 administrative convenience. At any time prior to a
hearing before a

19 hearing examiner, a person who has a complaint pending at
the division

20 may request that the division dismiss the complaint and annul
his or her

EXPLANATION--Matter in italics (underscored) is new; matter
in brackets

[-] is old law to be omitted.

LBD02790-01-9

S. 1190

2

A. 3483

1 election of remedies so that the human rights law claim may
be pursued

2 in court, and the division may, upon such request, dismiss the
complaint

3 on the grounds that such person's election of an
administrative remedy

4 is annulled. Notwithstanding subdivision (a) of section two
hundred four

5 of the civil practice law and rules, if a complaint is so
annulled by

6 the division, upon the request of the party bringing such
complaint

7 before the division, such party's rights to bring such cause
of action

8 before a court of appropriate jurisdiction shall be limited by
the stat-

9 ute of limitations in effect in such court at the time the
complaint was

10 initially filed with the division. Any party to a housing
discrimination

11 complaint shall have the right, within twenty days following
a determi-

12 nation of probable cause pursuant to subdivision two of this
section, to

13 elect to have an action commenced in a civil court, and
an attorney

14 representing the division of human rights [~~will~~] shall be
appointed to

15 present the complaint in court[7] or, with the consent of
the division,

16 the case may be presented by complainant's attorney. A
complaint filed

17 by the equal employment opportunity commission to
comply with the

18 requirements of 42 USC 2000e-5(c) and 42 USC 12117(a) and 29
USC 633(b)

19 shall not constitute the filing of a complaint within the
meaning of

20 this subdivision. No person who has initiated any action in a
court of

21 competent jurisdiction or who has an action pending before
any adminis-

22 trative agency under any other law of the state based upon an
act which

23 would be an unlawful discriminatory practice under this
article[7] may

24 file a complaint with respect to the same grievance under
this section

25 or under section two hundred ninety-six-a of this article.

26 § 2. This act shall take effect immediately.