

NEW YORK GOVERNOR DAVID PATERSON'S VETO MESSAGE_SOURCE OF INCOME LEGISLATION (AUGUST 2010):

VETO MESSAGE - No. 6766

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 10689-A, entitled:

"AN ACT to amend the executive law, in relation to discrimination based upon the income of persons"

NOT APPROVED

This bill would amend Executive Law Section 296 to make it unlawful for New York property owners to discriminate against a person seeking housing on the basis of the source of income. "Source of income" is defined to include "wages from lawful employment; child support; alimony; foster care subsidies; income from social security or any other form of federal, state or local public assistance; housing and rental subsidies; and assistance, including section 8 vouchers; savings; investment and trust accounts; and other forms of lawful income." One of the most important effects of the bill would be to require property owners to participate in the federal Section 8 program. The Section 8 program, administered by the United States Department of Housing and Urban Development, provides vouchers to low-income tenants that can be used for payment of rent to property owners participating in the program.

This bill was prompted by very significant policy concerns. Holders of Section 8 vouchers often find it difficult to locate housing because many property owners do not rent to Section 8 tenants. It was not so long ago that advertisements for apartments explicitly included "No Section 8." For the Section 8 program to be meaningful, enough units must be made available for Section 8 tenants. A healthy Section 8 program is particularly critical in times of economic crisis.

Nonetheless, with regret I am compelled to veto the bill, both because of the heavy burden it would place on small New York property owners at a time when they are struggling to pay their mortgages and maintain their homes, and because of its impact on the State's finances.

When a landlord accepts a Section 8 voucher, the unit is taken off the market while inspections and paperwork are completed. Rent is not collected on the unit during this time, which can total three months or more. In addition, housing units are subject to annual inspections and

Section 8 payments are suspended until violations are rectified. A small landlord may have no funds to pay for repairs while payments are being withheld. Even when violations are the result of a tenant's actions and no fault of the landlord, landlords are not allowed to bring non-payment cases to Housing Court for the Section 8 portion of the rent.

The limitations placed on a landlord in regard to Section 8 vouchers are a necessary part of a valuable housing program, but for small landlords, they can be very onerous. For that reason, local laws that bar discrimination on the basis of source of income often carve out such property holders. New York City's anti-discrimination law, for example, exempts owners of buildings with five or fewer apartments. This bill, in contrast, applies to every property owner in New York State but those who occupy one unit of a two-family home. Moreover, this bill, if signed

into law, would preempt the New York City law and eliminate the carve-out for New York City property owners. I do not believe this broad compulsion to participate in the Section 8 program is necessary in regard to buildings with three, four and five apartments, and it has the potential to drive such housing from the market, and have the perverse result of creating a disincentive for people to invest in affordable housing in New York.

Further, this bill has the potential to substantially increase the caseload of the Division of Human Rights, requiring a substantial commitment of new resources and the hiring of additional staff. Following the passage of the New York City ban on source of income discrimination, the New York City Commission on Human Rights, which is responsible for enforcing the law, saw complaints based on alleged discriminatory failure to accept Section 8 vouchers swell to 20% of its caseload. A similar upsurge in the caseload of DHR would mean hundreds of new complaints. The additional staff necessary to process these complaints could cost as much as \$2.7 million. The Legislature has identified no existing funds and provided no new revenue to pay for this bill, and this is an expenditure the State simply cannot afford at this time.

The bill is disapproved.

(signed) DAVID A. PATERSON