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DEPARTMENT OF STATE

County of Suffolk

Local Law No 25 **of the year 20**14

A Local Law To Amend, Update And Reorganize Chapter 528 Of The Suffolk County Code To Incorporate Changes Adopted By The State And To Facilitate Continuing Advancements And Modifications Of The Law In The Future

Be it enacted by the County Legislature **of the**
(Name of Legislative Body)

County of Suffolk **as follows:**

Section 1. Legislative Intent.

The Suffolk County Legislature hereby finds and determines that in the County of Suffolk, with its diverse population, there is no greater danger to the health, safety, and welfare of the County and its inhabitants than the existence of groups and individuals reflecting prejudice and antagonism toward each other because of actual or perceived differences.

The Legislature also finds that prejudice and discrimination creates economic instability by limiting individuals' access to quality education, health care, housing and job opportunities.

The Legislature further finds and declares that acts of prejudice, intolerance, bigotry, and discrimination deny opportunities to persons, threaten the fundamental rights and privileges of the inhabitants of the County of Suffolk and undermine the foundations of a free democratic state and the economic stability of the region.

The Legislature further declares it to be the public policy of the County of Suffolk to eliminate and prevent discrimination and to safeguard the right of every person to live and work in Suffolk County without regard to actual or perceived race, color, creed, gender, alienage or citizenship status, disability, familial status, marital status, military status, sexual orientation, age, national origin, income source or status as a victim of domestic violence.

Therefore, the purpose of this law is to update the Suffolk County Human Rights Law to include a comprehensive administrative process, to incorporate changes adopted by the State, to reorganize the Suffolk County law in an effort to make it more user-friendly, to ensure that prejudice, intolerance, bigotry and discrimination will not threaten the rights of Suffolk County inhabitants and to promote the principles of equality and inclusion.

Section 2. Amendments.

Article II of Chapter 528 of the SUFFOLK COUNTY CODE is hereby deleted in its entirety and replaced with the following:

Chapter 528
HUMAN RIGHTS
***

Article II. Unlawful Discriminatory Acts.

§ 528-5. Policy.

Each year a number of Suffolk County residents are subject to incidents of violence and other acts of prejudice committed in Suffolk County based upon actual or perceived differences, including those based on race, color, gender, creed, national origin, age, alienage or citizenship status, sexual orientation, disability, marital status, familial status, military status, source of income, or status as a victim of domestic violence. Such acts of prejudice, intolerance, bigotry, discrimination, and disorder threaten the rights and proper privileges of the County's inhabitants and create a danger to the health, safety and welfare of the County and its inhabitants. Therefore, the purpose of this Article is to create a mechanism to eliminate and prevent discrimination from playing any role in actions that occur within Suffolk County relating to employment, public accommodations, housing and other real estate, and to take other actions against prejudice, intolerance, bigotry, discrimination and bias-related violence or harassment.

§ 528-6. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

AGENT

Any person or entity, whether or not for financial consideration, with the authority to engage in any act on behalf of an employer or property owner, or other person or entity in control of such accommodation. The term "agent" shall include, but not be limited to, a real estate salesperson or real estate broker.

ALIENAGE OR CITIZENSHIP

A. The citizenship of any individual; or

B. The immigration status of any individual legally eligible to be employed within the United States and who is not a citizen or national thereof.

COMMERCIAL SPACE

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.

COMMISSION

The Suffolk County Human Rights Commission.

COUNTY

The County of Suffolk.

COVERED ENTITY

A person required to comply with any provision of this Article.

CREDIT

The right conferred upon an individual 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.

CREDITOR

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, whatever the form of their organization.

DEMONSTRATES

Meeting the burdens of production and persuasion.

DISABILITY

A. (1) A physical, mental, or medical impairment resulting from an anatomical, physiological, genetic or neurological condition 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.

B. In the case of alcoholism, drug addiction or other substance abuse, the term "disability" shall only apply to an individual who: (1) is recovering or has recovered and (2) currently is free of such abuse, and shall not include an individual who is currently engaged in the illegal use of drugs, when the covered entity acts on the basis of such use.

DOMESTIC WORKER

As defined in section 2 in the New York State Labor Law, as same may be amended from time to time.

EMPLOYEE

Shall not include any individual employed by his or her parents, spouse or child, or in the domestic service of any person, except as set forth in section 528-11.

EMPLOYER

As defined in §292 of the New York Executive Law, as same may be amended from time to time.

EMPLOYMENT AGENCY

Any person undertaking to procure employees or opportunities to work.

ESSENTIAL FUNCTIONS

The fundamental job duties of employment position held. The term "essential functions" does not include the marginal functions of the position. A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following: (A) the reason the position exists is to perform that function; (B) the limited number of employees available among whom the performance of that job function can be distributed; and (C) the function is highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

FAMILIAL STATUS

A. Any individual 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:

1. A parent or another individual having legal custody of such individual or individuals; or

2. The designee of such parent or other individual having custody.

GENDER

Actual or perceived sex of an individual, or an individual's gender identity, self-image, appearance, behavior or expression whether or not it is different from that traditionally associated with the legal sex assigned to that individual at birth.

GROUP IDENTITY

The actual or perceived race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, or familial status of any individual, as well as the actual military status of any individual.

GUIDE DOG

Any dog that is trained to aid an individual who is blind by a recognized guide dog training center or professional guide dog trainer, and is actually used for such purpose.

HEARING DOG

Any dog that is trained to aid an individual with a hearing impairment by a recognized hearing dog training center or professional hearing dog trainer, and is actually used for such purpose.

HOUSING ACCOMMODATION

Includes publicly assisted housing accommodations, 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, and any vacant land offered for sale or lease for the construction or location thereon of any such buildings, structure, or portion thereof.

LABOR ORGANIZATION

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 mutual aid or protection in connection with employment.

LAWFUL SOURCE OF INCOME

Includes, but is not limited to, income derived from Social Security, or any form of federal, state or local public assistance or housing assistance including the Housing Choice Voucher Program.

MILITARY STATUS

An individual'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.

MULTIPLE DWELLING

Includes a dwelling which is occupied primarily for permanent residence purposes and which is either rented, leased, let or hired out to be occupied as the residence or home of three or more families living independently of each other. A multiple dwelling shall not be deemed to include a hospital, convent, monastery, asylum, or public institution, or a fireproof building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one penthouse occupied by not more than two families. The term "family" as used herein, means either an individual occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more individuals occupying a dwelling, living together and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more individuals occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. A "boarder," "roomer" or "lodger" residing with a family means an individual living within the household who pays a consideration for such residence and does not occupy such space within the household as an incident of employment therein.

NATIONAL ORIGIN

Includes "ancestry."

PERSON

Includes one or more natural persons, proprietorships, limited liability companies, partnerships, associations, group associations, organizations, corporations of all types, governmental bodies or agencies, mutual companies, joint-stock companies, trusts, unincorporated associations, legal representatives, trustees, trustees in bankruptcy, fiduciary receivers, or receivers.

PLACE OF PUBLIC ACCOMMODATION, RESORT OR AMUSEMENT

Except as hereinafter specified, includes providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages and privileges of any kind, and places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages and privileges of any kind are extended, offered, sold, consumed or otherwise made available to the public.

A. Such term shall not include public libraries, kindergartens, primary and secondary schools, high schools, academies, colleges and universities, professional schools, extension courses, and any educational institutions under the supervision of the regents of the State of New York; any public library, kindergarten, primary and secondary school, high school, academy, college, university, professional school, extension course or other educational facility supported in whole or in part by public funds or contributions solicited from the general public; any club or organization which by its nature is distinctly private, but no such club or organization shall be considered by its nature distinctly private if:

1. It has more than one hundred (100) members;

2. It provides regular meal service; and

3. It regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of nonmembers for the furtherance of trade or business.

B. A corporation incorporated under the New York Benevolent Orders Law or described in the New York Benevolent Orders Law, but formed under any other law of this state, or a religious corporation incorporated under the New York Education Law or the New York Religious Corporations Law shall be deemed to be in its nature distinctly private. No institution, club, organization or place of accommodation which sponsors or conducts any amateur athletic contest or sparring exhibition and advertises or bills such contest or exhibition as a New York State championship contest or uses the words "New York State" in its announcements shall be considered by its nature distinctly private within the meaning of this Article.

PREGNANCY-RELATED CONDITION

A physical or mental condition intrinsic to pregnancy or childbirth, and includes the expression of breast milk by nursing mothers.

PREMIUM WAGES

Includes overtime pay and compensatory time off, and additional remuneration for night, weekend or holiday work, or for standby or irregular duty.

PREMIUM BENEFIT

An employment benefit, such as seniority, group life insurance, health insurance, disability insurance, sick leave, annual leave, or an educational or pension benefit that is greater than the employment benefit due the employee for an equivalent period of work performed during the regular work schedule of the employee.

PUBLICLY ASSISTED HOUSING ACCOMMODATIONS

All housing accommodations within Suffolk County in:

A. Publicly owned or operated housing accommodations;

B. Housing operated by housing companies under the supervision of the State Commissioner of Housing;

C. Housing constructed after July 1, 1950, within Suffolk County and which is either:

1. Exempt in whole or in part from taxes levied by the state or any of its political subdivisions;

2. Constructed on land sold below cost by the state or any of its political subdivisions or any agency thereof, pursuant to the Federal Housing Act of 1949;

3. Constructed in whole or in part on property acquired or assembled by the state or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction; or

4. Acquired, constructed, repaired or maintained with funds or financial assistance furnished or contributed by the state, any political subdivision of the state, or any agency or authority of the state.

D. Housing which is located in a multiple dwelling, the acquisition, construction, rehabilitation, repair or maintenance of which is, after July 1, 1955, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof, provided that such a housing accommodation shall be deemed to be publicly assisted only during the life of such loan and such guarantee or insurance; and

E. Housing which is offered for sale by a person who owns or otherwise controls the sale of 10 or more housing accommodations located on land that is contiguous (exclusive of public streets), if:

1. The acquisition, construction, rehabilitation, repair, or maintenance of such housing accommodations is, after July 1, 1955, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof, provided that such a housing accommodation shall be deemed to be publicly assisted only during the life of such loan and guarantee or insurance; or

2. A commitment, issued by a government agency after July 1, 1955, is outstanding, that acquisition of such housing accommodations may be financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof.

REAL ESTATE BROKER

Any person who, or firm which, 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 to attempt 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 connection with the sale of lots pursuant to the provisions of Article 9-A of the New York Real Property Law, the term "real estate broker" shall also include any person or firm 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 or which 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.

REAL ESTATE SALESPERSON

An individual employed by a licensed real estate broker to list for sale, sell or offer for sale, at auction or otherwise, 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 on behalf of such real estate broker.

REASONABLE ACCOMMODATION

Actions taken which permit an employee, prospective employee or labor organization member (A) with a disability; or (B) with a pregnancy-related condition; to perform in a reasonable manner the essential functions 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 individuals with impaired hearing or vision, job restructuring and modified work schedules, or some form of protection or security measure: 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.

SERVICE DOG

Any dog that is trained to work or perform specific tasks for the benefit of an individual with a disability by a recognized service dog training center or professional service dog trainer, and is actually used for such purpose.

SEXUAL ORIENTATION

Heterosexuality, homosexuality or bisexuality.

VICTIM OF DOMESTIC VIOLENCE

An individual who is a victim of an act which would constitute a family offense pursuant to subdivision 1 of §812 of the Family Court Act.

§528-7. Unlawful discriminatory practices in employment.

A. It shall be an unlawful discriminatory practice:

1. For an employer to refuse to hire or employ or to bar or to discharge from employment or to discriminate against any individual in promotion, compensation or in terms, conditions or privileges of employment because of such individual's group identity or status as a victim of domestic violence.

2. For an employment agency to discriminate against any individual, because of such individual's group identity or status as a victim of domestic violence, in receiving, classifying, disposing of or otherwise acting upon applications for its services or in referring an applicant or applicants for its services to an employer.

3. For a labor organization to exclude or to expel from its membership an individual or to discriminate in any way against any of its members or against any employer or any individual

employed by an employer because of such individual's group identity or status as a victim of domestic violence.

4. For any employer, labor organization or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment which expresses, directly or indirectly, any limitation, specification or discrimination as to group identity or status as a victim of domestic violence, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

5. For any employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs:

   a. To refuse to select any individual or individuals for an apprentice training program registered with the State of New York because of the individual's or individuals' group identity or status as a victim of domestic violence.

   b. To deny to or withhold from any individual or individuals, because of his or her group identity or status as a victim of domestic violence, the right to be admitted to or participate in a guidance program, an apprenticeship, training program, on-the-job training program, or other occupational training or retraining program.

   c. To discriminate against any individual in his or her pursuit of such programs or to discriminate against such an individual in the terms, conditions or privileges of such programs because of group identity or status as a victim of domestic violence.

   d. To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in connection with such programs which expresses, directly or indirectly, any limitation, specification or discrimination based on an individual's or applicant's group identity or status as a victim of domestic violence, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

6. For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any individual because he or she has (a) opposed any practices forbidden under this Article; or (b) filed a complaint, testified, or assisted in any proceeding under this Article; or (c) commenced a civil action against such employer, labor organization or employment agency, or employee or agent thereof, which action alleges the commission of an unlawful discriminatory practice, or (d) participated with the Commission or its members or counsel in any investigation; or (e) provided information to the Commission or its members or counsel in any investigation.

7. For an employer to compel an employee who is pregnant to take a leave of absence, unless the employee is prevented by such pregnancy from performing the essential functions of the job or occupation in a reasonable manner and no reasonable accommodation can be made, without causing an undue hardship on the employer, which will permit the employee to perform the essential functions of the job or occupation in a reasonable manner.

8. For any employer to discriminate against an employee who chooses to express breast milk in the workplace, to refuse to provide reasonable unpaid break time or refuse to permit an

employee to use paid break time or meal time each day to allow an employee to express breast milk for her nursing child for up to three (3) years following child birth, or refuse to make reasonable efforts to provide a room or other location, in close proximity to the work area, where an employee can express breast milk in privacy.

9. For an employer, employment agency or labor organization to refuse to provide reasonable accommodations to the known disabilities or pregnancy-related conditions of an employee, prospective employee or labor organization member in connection with a job or occupation sought or held or participation in a training program. Nothing contained in section 528-7(A)(9) shall be construed to require provision of accommodations which the employer, employment agency or labor organization can demonstrate will impose an undue hardship on the operation of an employer's, employment agency's, or labor organization's business, program or enterprise. Factors that may be considered by the Commission in determining whether the accommodation constitutes an undue hardship include, but are not limited to:

   i. the overall size of the business, program or enterprise with respect to the number of employees, number and types of facilities, and size of budget;

   ii. the type of operation which the business, program, or enterprise is engaged in, including the composition and structure of the workforce; and

   iii. the nature and cost of the accommodation needed.

10. For any employer, or an employee or agent thereof, to impose upon an individual as a condition of obtaining or retaining employment, including opportunities for promotion, advancement or transfers, any terms or conditions that would require such individual to violate or forego a sincerely held practice of his or her religion including, but not limited to, the observance of any particular day or days or any portion thereof as a Sabbath or other holy day in accordance with the requirements of his or her religion, unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious observance or practice without undue hardship on the conduct of the employer's business.

    a. Notwithstanding any other provision of law to the contrary, an employee shall not be entitled to premium wages or premium benefits for work performed during hours to which such premium wages or premium benefits would ordinarily be applicable, if the employee is working during such hours only as an accommodation to his or her sincerely held religious requirements. Nothing in section 528-7(A)(10)(a) or section 528-7(A)(10)(b) shall alter or abridge the rights granted to an employee concerning the payment of wages or privileges of seniority accruing to that employee.

    b. Except where it would cause an employer to incur an undue hardship, no individual shall be required to remain at his or her place of employment during any day or days or portion thereof that, as a requirement of his or her religion, he or she observes as his or her Sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his or her place of employment and his or her home; provided, however,

that any such absence from work shall, wherever practicable in the reasonable judgment of the employer, be made up by an equivalent amount of time and work at some other mutually convenient time; or shall be charged against any leave with pay ordinarily granted, other than sick leave; provided further, however, that any such absence not so made up or charged, may be treated by the employer of such individual as leave taken without pay.

c. It shall be an unlawful discriminatory practice for an employer or an employee or agent thereof to refuse to permit an employee to utilize leave, as provided in section 528-7(A)(10)(b), solely because the leave will be used for absence from work to accommodate the employee's sincerely held religious observance or practice.

d. As used in this section 528-7(A)(10):

"Undue hardship" means an accommodation requiring significant expense or difficulty (including a significant interference with the safe or efficient operation of the workplace or a violation of a bona fide seniority system). Factors that may be considered by the Commission in determining whether the accommodation constitutes an undue hardship include, but are not limited to:

(a) the identifiable cost of the accommodation, including the costs of loss of productivity and of retaining or hiring employees or transferring employees from one facility to another, in relation to the size and operating cost of the employer;

(b) the number of individuals who will need the particular accommodation to a sincerely held religious observance or practice;

(c) for an employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive; and

(d) the resulting inability of an employee to perform the essential functions of the position in which he or she is employed.

11.a. 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 race, creed, color, national origin, sexual orientation, military status, gender or marital status of such individual.

b. Upon the filing of a complaint under this Article, and in the event of a finding that an unlawful discriminatory practice has been engaged in, the board of fire commissioners or other body or office having power of appointment of volunteer firefighters shall be served with any order required under this Article to be served on any or all respondents requiring such respondent or respondents to cease and desist from such unlawful discriminatory practice and to take affirmative action. Unless such board has been found to have

engaged in an unlawful discriminatory practice, service upon such board of such order shall not constitute such board or its members as a respondent nor constitute a finding of an unlawful discriminatory practice against such board or its members.

12.a. For any person to deny any license or employment 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 Correction Law. Further, there shall be a rebuttable presumption in favor of excluding from evidence the prior incarceration or conviction of any individual, in a case alleging that the employer has been negligent in hiring or retaining an applicant or employee, 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 section seven hundred fifty-two of the correction law, and made a reasonable, good faith determination that such factors militate in favor of hire or retention of that applicant or employee.

b. Unless specifically required or permitted by statute, for any person 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 subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law or by a conviction which is sealed pursuant to section 160.58 of the criminal procedure law, 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 subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 of the criminal procedure law. The provisions of this section 528-7(A)(12) 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 subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law; provided further that the provisions of this section 528-7(A)(12) 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 subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 of the criminal procedure law.

B. An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee who, or agent which is in violation of any provision of section 528-7 where:

1. The employee or agent exercises or exercised managerial or supervisory responsibility; or

2. The employer knew of the employee's or agent's discriminatory conduct, and acquiesced in such conduct or failed to take immediate and appropriate corrective action. An employer shall be deemed to have knowledge of any employee's or agent's discriminatory conduct where that conduct was known by another employee or agent who exercised managerial or supervisory responsibility; or

3. The employer should have known of the employee's or agent's discriminatory conduct and failed to exercise reasonable diligence to prevent such discriminatory conduct.

§528-8. Unlawful discriminatory practices in places of public accommodation, resort or amusement.

A. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the actual or perceived race, color, creed, national origin, alienage or citizenship status, gender, sexual orientation, disability, or marital status of any individual or the actual military status of any individual, directly or indirectly, to refuse, withhold from or deny to such individual any of the accommodations, advantages, facilities or privileges thereof, including the extension of credit, or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any individual on account of actual or perceived race, color, creed, national origin, alienage or citizenship status, gender, sexual orientation, disability, or marital status of any individual or the actual military status of any individual, or that the patronage or custom thereat of any individual of or purporting to be of any particular race, creed, color, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status or actual military status is unwelcome, objectionable, or not acceptable, desired or solicited.

B. Nothing in this section 528-8 shall be construed to prevent the barring of any individual, because of the sex of such individual, from places of public accommodations, resort or amusement, based on bona fide considerations of public policy; nor shall this section 528-8 apply to the rental of rooms in a housing accommodation which restricts such rental to individuals of one sex.

C. For the purposes of this section 528-8, "unlawful discriminatory practice" includes:

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 or would result in an undue burden;

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 section 528-8(C)(3) is not readily achievable, a failure to make such facilities, privileges, advantages or accommodations available through alternative methods if such methods are readily achievable.

D. For the purposes of section 528-8(C) above:

1. "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. Factors that may be considered by the Commission in determining whether an action is readily achievable include, but are not limited to:

   a. the nature and cost of the action needed under section 528-8(C);

   b. the overall financial resources of the facility or facilities involved in the action; the number of individuals employed at such facility; the effect on expenses and resources or the impact otherwise of such action upon the operation of the facility;

   c. the overall financial resources of the place of public accommodation, resort or amusement; 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

   d. the type of operation or operations of the place of public accommodation, resort or amusement, 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.

2. "Auxiliary aids and services" include:

   a. qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

   b. qualified readers, taped texts or other effective methods of making visually delivered materials available to individuals with visual impairments;

   c. acquisition or modification of equipment or devices; and

   d. other similar services and actions.

3. "Undue burden" means significant difficulty or expense. Factors that may be considered by the Commission in determining whether an action would result in an undue burden include, but are not limited to:

   a. The nature and cost of the action needed under section 528-8(C);

b. The overall financial resources of the site or sites involved in the action; the number of individuals 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.

E. Sections 528-8(C) and (D) shall not apply to any air carrier, the National Railroad Passenger Corporation, or public transportation facilities, vehicles or services owned, leased or operated by the state, a county, city, town or village, or any agency thereof, or by any public benefit corporation or authority.

§528-9. Unlawful discriminatory practices in the sale, lease or rental of housing accommodations or commercial property.

A. It shall be an unlawful discriminatory practice:

1. To refuse to sell, rent, lease or otherwise deny to or withhold from any individual or group of individuals any housing accommodation, constructed or to be constructed, land or commercial space, or an interest therein, or refuse to negotiate for the sale, rental or lease of any housing accommodation, land or commercial space, or an interest therein, to any individual or group of individuals, because of the group identity or lawful source of income of such individual or individuals or to represent that any housing accommodation, land or commercial space, or an interest therein, is not available for inspection, sale, rental or lease when, in fact, it is so available, or to otherwise deny to or withhold any housing accommodation, land or commercial space, or an interest therein, or any facilities of any housing accommodation or commercial space from any individual or individuals because of the group identity or lawful source of income of such individual or individuals;

2. To discriminate against any individual or group of individuals because of the group identity or lawful source of income of such individual or individuals in the terms, conditions or privileges of the sale, rental, or lease of any housing accommodation, land or commercial space, or an interest therein, or in the furnishing of facilities or services in connection therewith;

3. To discriminate against any individual or group of individuals in making available a residential real estate transaction, or in the terms and conditions of such a transaction, because of the group identity or lawful source of income of such individual or individuals;

4. To refuse to permit, at the expense of the individual with a disability, reasonable modifications of existing premises occupied or to be occupied by the said individual, if the modifications may be necessary to afford the individual full enjoyment of the premises, in conformity with the

provisions of the New York State Uniform Fire Prevention and Building Code, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the premises to the condition that existed before the modification, reasonable wear and tear excepted;

5. To refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford an individual with a disability equal opportunity to use and enjoy a housing accommodation, including reasonable modifications to the common use portions of the housing accommodation;

6. In connection with the design and construction of covered multiple dwellings for first occupancy after January 1, 2007, to fail to design and construct those dwellings in such a manner that:

   a. The public use and common use portions of such dwellings are readily accessible to and usable by handicapped individual;

   b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped individuals in wheelchairs; and

   c. All premises within such dwellings contain the following features of adaptive design:

      i. An accessible route into and through the dwelling;

      ii. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

      iii. Reinforcements in bathroom walls to allow later installation of grab bars; and

      iv. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

   Compliance with the appropriate requirements of the American National Standard Institute for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of section 528-9(A)(6)(c);

7. To make, print, or publish, or cause to be made, printed or published any statement, advertisement, or publications, or to use any form of application for the purchase, rental, or lease of any housing accommodation, land or commercial space, or an interest therein, or to make any record or inquiry in connection with the prospective purchase, rental, or lease of such housing accommodation, land or commercial space, or an interest therein, which expresses, directly or indirectly, any limitation, specification, or discrimination with respect to group identity or because of the lawful source of income of such individual or individuals, or any intent to make any such limitation, specification, or discrimination;

8. To induce or attempt to induce, for profit or otherwise, any person to sell, rent or lease any housing accommodation, land, or commercial space, or an interest therein, by representations, explicit or implicit, regarding the entry or prospective entry into the neighborhood of an individual or group of individuals because of his, her or their group identity or lawful source of income;

9. To threaten, intimidate, or interfere with individuals in their enjoyment of a housing accommodation, land or commercial space because of their group identity or lawful source of income, or the group identity of their guests, invitees, visitors or associates.

B. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson, or an employee or agent of a real estate broker or real estate salesperson:

1. To refuse to sell, rent or lease any housing accommodation, land or commercial space, or an interest therein, to any individual or group of individuals or to refuse to negotiate for the sale, rental or lease of any housing accommodation, land or commercial space, or an interest therein, to any individual or group of individuals because of the group identity or because of the lawful source of income of such individual or group of individuals, or to represent that any housing accommodation, land or commercial space, or an interest therein, is not available for inspection, sale, rental or lease when, in fact, it is so available, or otherwise deny or withhold any housing accommodation, land or commercial space, or an interest therein, or any facilities of any such housing accommodation or commercial space from any individual or group of individuals because of the group identity or because of the lawful source of income of such individual or individuals.

2. To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, sale, rental or lease of any housing accommodation, land, or commercial space, or an interest therein, or to make any record or inquiry in connection with the prospective purchase, sale, rental or lease of any housing accommodation, land or commercial space, or an interest therein, which expresses, directly or indirectly, any limitation, specification, or discrimination as to group identity or as to lawful source of income, or any intent to make any such limitation, specification or discrimination.

C. Exceptions.

1. The provisions of section 528-9, as they relate to age, shall not apply to individuals under the age of eighteen years.

2. The provisions of section 528-9(A)(1) through (7) shall not apply: a) to the rental of housing accommodations in a building which contains housing accommodations for not more than two (2) families if the owner or members of his or her family reside in one of such housing accommodations; or b) to the rental of a room or rooms in a housing accommodation if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and he or she or members of his or her family reside in such housing accommodation; or c) solely with respect to age and familial status, to the restriction of the sale, rental or lease of housing accommodations exclusively to individuals 62 years of age or older and the spouse of any such individual, or for housing intended and operated for occupancy by at least one individual 55 years of age or older per unit. In determining whether housing is intended and operated for occupancy by individuals 55 years of age or older, Section 807(b)(2)(C) [42 U.S.C. §3607(b)(2)(c)] of the federal Fair Housing Act of 1988, as amended, shall apply.

3. The provisions of section 528-9, as they relate to unlawful discriminatory practices on the basis of lawful source of income, shall not apply to housing accommodations that contain two (2) or fewer housing units; provided, however, the provisions of section 528-9 shall apply to all housing accommodations, regardless of the number of units contained in each, of any person who has the rights to sell, rent or lease or approve the sale, rental or lease of at least

three (3) housing accommodations within Suffolk County, constructed or to be constructed, or has the rights to sell, rent or lease or approve the sale, rental or lease of interests in at least three (3) housing accommodations.

4. Nothing in section 528-9(A)(4), (5) and (6) requires that a housing accommodation or multiple dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

§528-10. Unlawful discriminatory practices in relation to credit.

A. It shall be an unlawful discriminatory practice for any creditor or any officer, agent or employee thereof:

1. In the case of applications for credit with respect to the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, land or commercial space, to discriminate against such applicant because of the group identity of such applicant or applicants, or any member, stockholder, director, officer, or employee of such applicant or applicants, or of the prospective occupants or tenants of such housing accommodation, land or commercial space, in the granting, withholding, extending, renewing, or in the fixing of the rates, terms or conditions of any such financial assistance or credit; or

2. To use any form of application for credit or make any record or inquiry in connection with applications for financial assistance or credit which expresses, directly or indirectly, limitations, specifications, preferences, or discrimination because of the group identity of the applicant or the applicants; or

3. To discriminate in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of any form of credit, on the basis an applicant or applicants' group identity; or

4. To refuse to consider sources of an applicant's income or to subject an applicant's income to discounting, in whole or in part, because of an applicant's group identity.

B. Without limiting the generality of section 528-10(A), it shall be considered discriminatory if, because of an applicant's group identity:

1. An applicant or class of applicants is denied credit in circumstances where other applicants of like overall creditworthiness are granted credit; or

2. Special requirements or conditions, such as requiring co-obligors or reapplication upon marriage, are imposed upon an applicant or class of applicants in circumstances where similar requirements or conditions are not imposed upon other applicants of like overall creditworthiness.

C. Notwithstanding any provision of this section 528-10 to the contrary, it shall not be:

1. Considered an unlawful discriminatory practice if credit differentiations or decisions are based upon factually supportable, objective differences in applicants' overall credit worthiness, which may include reference to such factors as current income, assets and prior credit history of such applicants, as well as reference to any other relevant factually supportable data; provided, however, that no creditor shall consider, in evaluating the credit worthiness of an

applicant, aggregate statistics or assumptions relating to group identity or the applicant's lawful source of income.

2. Considered an unlawful discriminatory practice to consider age in determining creditworthiness when age has a demonstrable and statistically sound relationship to a determination of creditworthiness.

§528-11. Unlawful discriminatory practices relating to domestic workers.

A. It shall be an unlawful discriminatory practice for an employer or any employee or agent thereof 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; or

2. Subject a domestic worker to unwelcome harassment based on the individual's 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.

§528-12. General provisions defining unlawful discriminatory practices.

A. It shall be an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this Article.

B. It shall be an unlawful discriminatory practice for any person engaged in any activity to which this Article applies to retaliate or discriminate against any individual because he or she has opposed any practice forbidden under this Article or because he or she has filed a complaint, testified or assisted in any proceeding under the Article.

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

D. It shall be an unlawful discriminatory practice to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, any right granted or protected by this Article; or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of any right granted or protected by this Article; or because of the group identity or status as a victim of domestic violence of an individual with whom such individual has or is perceived to have a relationship or association.

E. It shall be an unlawful discriminatory practice for any party to a conciliation agreement entered into pursuant to section 528-13 to violate the terms of such agreement.

F. Nothing contained in this Article shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting participation in any activity, including, but not limited to, employment, education, sales, lease, or rental of housing accommodations, land or commercial space, or granting admission to, or giving preference to individuals of the same religion or denomination or taking such action as is calculated by such organization to promote the religious principles for which it is established or maintained.

§528-13. Jurisdiction and Procedures.

A. The Commission shall have jurisdiction to entertain a complaint where:

1. Any complainant or individual aggrieved by an unlawful discriminatory practice, by himself or herself or by such individual's attorney, makes, signs and files with the Commission a timely, verified complaint, in writing, which shall: a) state the name of the person alleged to have committed the unlawful discriminatory practice complained of, and the address of such person, if known; b) set forth the particulars of the alleged unlawful discriminatory practice; and c) contain such other information as may be required by the Commission. The Commission shall acknowledge the filing of the verified complaint and advise the complainant of the time limits and choice of forums set forth in this Article; and

2. The Commission itself makes, signs and files a verified complaint alleging that a person has committed an unlawful discriminatory practice.

B. The Commission shall serve a copy of the verified complaint upon the respondent and all persons it deems to be necessary parties and shall advise the respondent of his, her or its procedural rights and obligations as set forth herein. Any verified complaint filed pursuant to this Article may be amended pursuant to procedures prescribed by rules of the Commission by filing such amended verified complaint with the Commission and serving a copy thereof upon all parties to the proceeding.

C. The Commission shall not have jurisdiction to entertain a complaint if:

1. The complainant has previously initiated a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice as defined by this Article with respect to the same grievance which is the subject of the complaint under this Article, unless such civil action has been dismissed without prejudice or has been withdrawn without prejudice; or

2. The complaint has been filed more than one year after the alleged unlawful discriminatory practice occurred.

D. The Commission shall not entertain jurisdiction over a complaint filed against any Suffolk County governmental agency, department or body.

E. Answer.

1. Within ten (10) days after a copy of the verified complaint is served upon the respondent by the Commission, the respondent shall file a written, verified answer thereto with the Commission, and the Commission shall cause a copy of such answer to be served upon the complainant and any necessary party.

2. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge or information sufficient to form a

belief, in which case the respondent shall so state, and such statement shall operate as a denial.

3. Any allegation in the complaint not specifically denied or explained shall be deemed admitted and shall be so found by the Commission unless good cause to the contrary is shown.

4. All affirmative defenses shall be stated separately in the answer.

5. Upon request of the respondent and for good cause shown, the period within which an answer is required to be filed may be extended in accordance with the rules of the Commission.

6. Any necessary party may file with the Commission a written, verified answer to the complaint, and the Commission shall cause a copy of such answer to be served upon the complainant, respondent and any other necessary party.

7. Any answer filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the Commission by filing such amended answer with the Commission and serving a copy thereof upon the complainant and any necessary party to the proceeding.

F. Withdrawal of complaint.

1. A complaint filed pursuant to section 528-13(A)(1) may be withdrawn by the complainant as of right at any time prior to a determination of the issue of probable cause. Such a withdrawal shall be in writing and signed by the complainant.

2. Unless such complaint is withdrawn pursuant to a conciliation agreement, the withdrawal of a complaint shall be without prejudice:

   a. To the continued investigation of the complaint by the Commission in accordance with rules of the Commission;

   b. To the initiation of a complaint by the Commission based in whole or in part upon the same facts;

   c. To the commencement of a civil action by the complainant in a court of competent jurisdiction; or

   d. To the commencement of a civil action in a court of competent jurisdiction by the County Attorney.

G. Dismissal of complaint.

1. The Commission may, in its discretion, dismiss a complaint for administrative convenience at any time prior to the taking of testimony at a hearing. Administrative convenience shall include, but not be limited to, the following circumstances:

   a. Commission personnel have been unable to locate the complainant after diligent efforts to do so;

   b. The complainant has repeatedly failed to appear at mutually agreed upon appointments with Commission personnel or is unable or unwilling to meet with Commission personnel, to provide requested documentation, or to attend a hearing;

   c. Relief is precluded by the respondent's absence or other special circumstances;

d. The complainant's objections to a proposed conciliation agreement are without substance;

e. Holding a hearing will not benefit the complainant;

f. The complainant has repeatedly engaged in conduct which is disruptive to the orderly functioning of the Commission;

g. Prosecution of the complaint will not serve the public interest;

h. The complainant has filed and has an action or proceeding pending before any administrative agency under any other law of the state alleging an unlawful discriminatory practice as defined by this Article with respect to the same grievance which is the subject of the complaint under this Article; or

i. The complainant has filed a complaint with the New York State Division of Human Rights alleging an unlawful discriminatory practice as defined by this Article with respect to the same grievance which is the subject of the complaint under this Article and a final determination has been made thereon.

2. The Commission shall dismiss a complaint for administrative convenience where a complainant requests that it do so for the purpose of commencement by the complainant of a civil action in a court of competent jurisdiction.

3. In accordance with the rules of the Commission, the Commission shall dismiss a complaint if the complaint is not within the jurisdiction of the Commission.

4. If, after investigation, the Commission determines that probable cause does not exist to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice, the Commission shall dismiss the complaint as to such respondent.

5. The Commission shall promptly serve notice of any dismissal pursuant to this section upon the complainant, respondent and any necessary party.

6. The complainant may, within thirty (30) days of service of a notice of dismissal, and in accordance with the rules of the Commission, apply to the Executive Director of the Commission for review of any dismissal pursuant to this section. Upon such application, the Executive Director shall review such action and issue an order affirming, reversing or modifying such determination or remanding the matter for further investigation and action. A copy of such order shall be served upon the complainant, respondent and any necessary party.

H. Mediation and Conciliation.

1. If, in the judgment of the Commission, circumstances so warrant, the Commission shall, to the extent feasible, endeavor to resolve the complaint by any method of dispute resolution prescribed by rule of the Commission, including, but not limited to, mediation and conciliation.

2. Mediators shall be selected by the Executive Director of the Commission and may include Commission staff.

3. The terms of any conciliation agreement will contain such provisions as may be agreed upon by the Commission, the complainant and the respondent.

4. The members of the Commission and its staff shall not publicly disclose what transpired in the course of mediation and conciliation efforts.

5. If a conciliation agreement is entered into, the Commission shall embody such agreement in an order and serve a copy of such order upon all parties to the conciliation agreement. Every conciliation agreement is subject to public disclosure except where the Commission determines, either on its own or pursuant to a request of a party(ies), that disclosure is not necessary to further the purposes of this Article.

I. Investigation.

1. Every complaint shall be investigated in a timely, comprehensive and thorough manner, according to standards and procedures to be adopted in the rules of procedure of the Commission.

2. Notwithstanding anything contained in section 119(G) of the Suffolk County Code to the contrary, the Commission may at any time issue subpoenas requiring attendance and giving of testimony by witnesses and the production of books, papers, documents and other evidence relating to any matter under investigation or any question before the Commission. The issuance of subpoenas shall be governed by the civil practice law and rules.

3. At the end of each investigation, the Commission shall prepare a final investigative report. The Commission shall make available, on the request of a complainant or respondent, a copy of the final investigative report.

J. Determination of Probable Cause.

1. Except in connection with Commission-initiated complaints, which shall not require a determination of probable cause, where the Commission determines that probable cause exists to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice, the Commission shall issue a written notice to the complainant and respondent so stating. A determination of probable cause is not a final order of the Commission and shall not be administratively or judicially reviewable.

2. If a determination is made pursuant to section 528-13(J)(1) that probable cause exists, or if a Commission-initiated complaint has been filed, the Executive Director of the Commission shall refer the complaint to an administrative law judge unless the matter would be more appropriately handled by the New York State Division of Human Rights and would further this Article.

3. If a Commission-initiated complaint has been filed, the Executive Director of the Commission shall serve a notice upon the complainant, the respondent and any necessary party that the complaint has been so filed.

4. Nothing in section 528-13 shall be interpreted to prevent the receiving or other processing of complaints in accordance with any cooperative agreement with any federal or state agency concerned with the enforcement of laws against discrimination.

K. Hearing.

1. A hearing on the complaint shall be held before an administrative law judge, who shall be any attorney in good standing designated by the Commission.

2. The place of any such hearing shall be the office of the Commission or such other place as may be designated by the Commission. Notice of the date, time and place of such hearing shall be served upon the complainant, respondent and any necessary party.

3. The case in support of the complaint shall be presented before an administrative law judge. The complainant may present additional testimony and cross-examine witnesses, in person or by counsel. With respect to Commission-initiated complaints, the complainant may present additional testimony and cross-examine witnesses, in person or by counsel, if the complainant shall have intervened pursuant to rules established by the Commission.

4. The administrative law judge may, in his or her discretion, permit any person who has a substantial interest in the complaint to intervene as a party and may require the joinder of necessary parties.

5. Evidence relating to endeavors at mediation or conciliation by, between or among the Commission, the complainant and the respondent shall not be admissible at the hearing.

6. If the respondent has failed to answer the complaint within the time period prescribed in section 528-13(E) above, the administrative law judge shall enter a default and the hearing shall proceed to determine the evidence in support of the complaint; provided, however, that, upon application, the administrative law judge may, for good cause shown, open a default in answering, upon equitable terms and conditions, including the taking of an oral answer.

7. A respondent who has filed an answer or whose default in answering has been set aside by the Commission for good cause shown, or a necessary party, or a complainant or other person who has intervened pursuant to the rules of the Commission, may appear at such hearing, in person or otherwise, with or without counsel, and cross-examine witnesses, present testimony and offer evidence.

8. The hearing shall be governed by the rules of evidence applicable in the Supreme Court of the State of New York. The testimony taken at the hearing shall be under oath and shall be transcribed.

9. Subsequent to the hearing and to such briefing as the presiding administrative law judge may direct, the presiding administrative law judge shall prepare a recommended decision and order and forward that recommended decision and order, along with the record in the case, to the Executive Director.

L. Decision and Order.

1. If, upon all the evidence at the hearing, and upon the findings of fact, conclusions of law and relief recommended by an administrative law judge, the Executive Director shall find that a respondent has engaged in any unlawful discriminatory practice as set forth in this Article, the Executive Director shall state his/her findings of fact and conclusions of law and shall issue and cause to be served on such respondent an order for such relief as may be appropriate. Such order shall require the respondent to take such affirmative action as, in the judgment of the Executive Director, will effectuate the purposes of this Article and shall include, but not be limited to:

   a. cease and desist from the unlawful discriminatory practice;

   b. hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, admission to or participation in a guidance

program, apprenticeship training program, on the job training program or other occupational training or retraining program;

c. selling, renting or leasing, or approving the sale, rental or lease of housing accommodations, land, or commercial space, or an interest therein, or the provision of credit with respect thereto, without unlawful discrimination, if such actions are appropriate;

d. requiring training, monitoring, or adopting alternative policies;

e. payment of compensatory damages to the individual aggrieved by such practice or act; or

f. submission of reports with respect to the manner of compliance.

The Commission may also direct the payment of civil fines and penalties and attorney's fees to the County in the amounts and under circumstances described below in sections 528-14 and 528-15.

2. If, upon all the evidence at the hearing, and upon the findings of fact and conclusions of law recommended by the administrative law judge, the Executive Director shall find that a respondent has not engaged in any such unlawful discriminatory practice, the Executive Director shall state his/her findings of fact and conclusions of law and shall issue and cause to be served on the complainant, respondent, and any necessary party or any complainant who has not intervened an order dismissing the complaint as to such respondent.

M. Reopening of Proceeding by Commission.

The Commission may reopen any proceeding, or vacate or modify any order or determination of the Commission, whenever justice so requires, in accordance with the rules of the Commission.

N. Injunction and Temporary Restraining Order.

At any time after the filing of a complaint with the Commission alleging an unlawful discriminatory practice where there is reason to believe that the respondent, or any other person acting in concert with the respondent, may do or cause to be done any act that would tend to render ineffectual relief that could be ordered:

1. The County may commence or cause to be commenced, a special proceeding in accordance with article sixty-three of the civil practice law and rules for an order to show cause why the respondent and such other persons should not be enjoined from doing or causing such acts to be done; and

2. In the case of unlawful discriminatory practices in relation to the sale, lease, or rental of housing accommodations or commercial property, where the County has obtained injunctive relief pursuant to this section, a notice may be posted by the County in a conspicuous place on such housing accommodation or commercial property stating that such accommodation or property is the subject of a complaint before the Commission and that prospective buyers, renters, or lessees will take such accommodations or property at their own risk; provided, however, that no such notice shall be posted where the person charged with discrimination agrees in writing not to sell, rent, or lease such housing accommodations or property during the pendency of the action or proceeding against him, her, or it. Any willful destruction, defacement, alteration or removal of such notice by the owner or the agents or employees of the owner shall be a misdemeanor punishable upon conviction by a fine of up to $500.

3. Nothing herein shall prevent a complainant from applying to a court of competent jurisdiction for an injunction, temporary or permanent, or from filing a lis pendens against property.

O. Judicial Review.

1. Any complainant, respondent or other person aggrieved by a final order of the Executive Director of the Commission issued pursuant to sections 528-13(G) and 528-13(L) above, may obtain judicial review thereof in a proceeding as provided in this section 528-13(O).

2. Such proceeding shall be brought in Supreme Court, Suffolk County;

3. Such proceeding shall be initiated by the filing of a petition in such court and the issuance and service of a notice of petition returnable before such court. Thereupon, the court shall have jurisdiction of the proceeding and of the questions determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in any written transcript of the record upon the hearing before the Commission an order annulling, confirming or modifying the order of the Commission, in whole or in part, or to grant to the petitioner, or any other party, such temporary relief, restraining order, or other order or relief as the court determines is just and proper.

4. A proceeding under this section 528-13(O) must be instituted within sixty (60) days after the service of the final order of the Commission.

P. Enforcement.

1. Any action or proceeding that may be appropriate or necessary for the enforcement of any order issued by the Commission pursuant to this Article, including actions to secure permanent injunctions enjoining any acts or practices which constitute a violation of any such order, mandating compliance with the provisions of any such order, imposing penalties, or for such other relief as may be appropriate, may be initiated in any court of competent jurisdiction by the County on behalf of the Commission. In any such action or proceeding, application may be made for a temporary restraining order or preliminary injunction, enforcing and restraining all persons from violating any provisions of any such order, or for such other relief as may be just and proper, until hearing and determination of such action or proceeding and the entry of final judgment or order thereon. The court to which such application is made may make any or all of the orders specified, as may be required in such application, with or without notice, and may make such other or further orders or directions as may be necessary to render the same effect.

2. In any action or proceeding brought pursuant to section 528-13(P)(1), no person shall be entitled to contest the terms of the order sought to be enforced unless that person has timely commenced a proceeding for review of the order pursuant to section 528-13(O).

3. An action or proceeding may be commenced in any court of competent jurisdiction on behalf of the Commission for the recovery of the civil and criminal penalties provided for in this Article.

Q. Institution of Actions or Proceedings.

Where any of the provisions of this Article authorize an application to be made, or an action or proceeding to be commenced on behalf of the Commission in a court, such application may be made or such action or proceeding may be instituted only by the County Attorney, such attorneys

that may be employed by the Commission as are designated by the County Attorney or other individuals designated by the County Attorney.

R. Civil Cause of Action.

1. Any individual, including an individual who has filed a complaint with the Commission, claiming to be aggrieved by an unlawful discriminatory practice as proscribed by this Article shall have a cause of action in any court of competent jurisdiction for damages, injunctive relief and such other remedies as may be appropriate; provided, however, that an individual who has filed a complaint with the Commission with respect to such alleged unlawful discriminatory practice withdraws the complaint so filed.

2. Notwithstanding any inconsistent provision of section 528-13(R), where a complaint filed with the Commission is dismissed pursuant to section 528-13(G) for administrative convenience, an individual shall maintain all rights to commence a civil action pursuant to this Article as if no such complaint has been filed.

3. A civil action commenced under this section 528-13(R) must be commenced within two (2) years after the alleged unlawful discriminatory practice occurred. Upon the filing of a complaint with the Commission and during the pendency of such complaint and any court proceeding for review of the dismissal of such complaint, such two-year limitation period shall be tolled.

4. Notwithstanding any inconsistent provision of this section 528-13(R), where a complaint filed with the Commission is dismissed for administrative convenience and such dismissal is due to the complainant's malfeasance, misfeasance or recalcitrance, the two-year limitation period on commencing a civil action pursuant to this section shall not be tolled.

5. Reasonable attorney's fees and costs may be awarded to a prevailing party in a civil action commenced pursuant to this section 528-13(R) in accordance with applicable provisions of state law.

S. Pattern and practice investigations by County Attorney.

1. Whenever there is reasonable cause to believe that a person is engaged in a pattern or practice that results in the denial to any individual of the full enjoyment of any right secured by this Article, a civil action on behalf of the Commission or the County may be commenced in a court of competent jurisdiction by filing a complaint setting forth facts pertaining to such pattern or practice and requesting such relief as may be deemed necessary to insure the full enjoyment of the rights described in this Article, including, but not limited to, injunctive relief, damages, and such other types of relief as are deemed appropriate. Nothing in this section 528-13(S) shall be construed to prohibit an individual from filing a complaint pursuant to section 528-13(A) or from commencing a civil action in a court of competent jurisdiction based upon the same facts pertaining to such pattern or practice as are alleged in the civil action, or the Commission from filing a Commission-initiated complaint pursuant to section 528-13(A) alleging a pattern or practice of discrimination, provided that a civil action pursuant to this subsection shall not have previously been commenced.

2. A civil action commenced under this section 528-13(S) must be commenced within two (2) years after the alleged discriminatory practice occurred.

3. Such action may be instituted only by the County Attorney, such attorneys employed by the Commission as are designated by the County Attorney or other individuals designated by the County Attorney.

§ 528-14. Damages and civil fines and penalties.

A. In any matter where the Executive Director finds that a person has engaged in an unlawful discriminatory practice, the Commission may award compensatory damages to the individual aggrieved by such practice; impose payment to the County general fund of profits obtained by a respondent through the commission of unlawful discriminatory acts; and impose civil fines and penalties in an amount not to exceed $50,000, to be paid to the County general fund by a respondent, or not to exceed $100,000 to be paid to the County general fund by a respondent found to have committed an unlawful discriminatory act which is found to be willful, wanton or malicious. In cases of housing discrimination only, punitive damages in an amount not to exceed $10,000 may be awarded to the individual aggrieved by such practice.

B. Any civil fines or penalties imposed pursuant to this section 528-14, shall be separately stated and shall be in addition to and not reduce or offset any other damages or payment imposed upon a respondent pursuant to this Article. In cases of employment discrimination where the employer has fewer than fifty (50) employees, such civil fine or penalty may be paid in reasonable installments, in accordance with regulations promulgated by the Commission. Such regulation shall require the payment of reasonable interest resulting from the delay and in no case permit installments to be made over a period longer than three (3) years.

C. In addition to any other penalties or sanctions which may be imposed pursuant to any other law, any person who knowingly makes a material false statement in any proceeding conducted, or document or record filed, with the Commission, or record required to be preserved or made and kept and subject to inspection by the Commission pursuant to this section shall be liable for a civil penalty in an amount up to $5,000.

D. In addition to any other penalties or sanctions which may be imposed pursuant to this Article or any other law, any person who shall willfully resist, prevent, impede or interfere with the Commission or any of its employees or representatives in the performance of duty under this Article, or who shall willfully violate an order of the Commission or Executive Director or conciliation agreement, shall be liable for a civil penalty of not more than $50,000 and an additional civil penalty of not more than $1,000 per day for each day that the violation continues.

§528-15. Attorney's fees.

Attorney's fees may be awarded by the Commission to a prevailing party under this Article in accordance with applicable provisions of state law.

§528-16. Enforcement.

A. Any action or proceeding that may be appropriate or necessary for the enforcement of any order issued by the Commission pursuant to this Article, shall be brought in the New York State Supreme Court, Suffolk County.

B. The County Attorney is hereby authorized to take such action as necessary to obtain enforcement of the provisions of this Article, including the enforcement of corrective orders and the assessment of penalties and fines as provided herein. Any action taken by the Commission or the County Attorney under this Article shall not require resolution of the County Legislature.

§528-17. Construction.

This Article shall be construed liberally for the accomplishment of its purposes.

§528-18. Rules and regulations.

The Executive Director of the Suffolk County Human Rights Commission is hereby authorized, empowered, and directed to promulgate and issue such rules and regulations as shall be deemed necessary to carry out the provisions of this law. These rules shall include rules providing that the Commission shall be a party to all complaints and that a complainant shall be a party to a Commission-initiated complaint if the complainant has intervened in the manner set forth in the rules of the Commission. These rules shall also include rules governing discovery, sanctions for noncompliance with orders, motion practice and the issuance of subpoenas.

Section 3. Applicability.

This law shall apply to all complaints filed with the Commission or by the Commission on or after the effective date of this law.

Section 4. SEQRA Determination.

This Legislature, being the State Environment Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20) and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 5. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 6. Effective Date.

This law shall take effect on the ninetieth (90th) day immediately subsequent to filing in the Office of the Secretary of State.

DATED: September 9, 2014

1. **(Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No._____of 2014 of the (County)(City)(Town)(Village) of _____was duly passed by the _____ on _____, 2014 in accordance with the applicable
(Name of Legislative Body)

provisions of law.

2. **(Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**

I hereby certify that the local law annexed hereto, designated as local law No.25 of 2014 of the (County) of Suffolk was duly passed by the County Legislature on September 9, 2014, and was approved by the
(Name of Legislative Body)

County Executive and was deemed duly adopted on September 24, 2014, in accordance with the
(Elective Chief Executive Officer)*

applicable provisions of law.

3. **(Final adoption by referendum).**

I hereby certify that the local law annexed hereto, designated as local law No.___ of 2014 of the County of Suffolk was duly passed by the Suffolk County Legislature on _____, 2014 and was approved
(Name of Legislative Body)

by the _____County Executive on _____, 2014.
Such local law was submitted to the people by reason of a mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the general election held on November ___ 2014, in accordance with the applicable provisions of law.

4. **(Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum).**

I hereby certify that the local law annexed hereto, designated as local law No._____ of 2014 of the (County)(City)(Town)(Village) of _____was duly passed by the _____ on _____, 2014, and was (approved)(not approved)
(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____, 2014. Such local
(Elective Chief Executive Officer)*

law was submitted to permissive referendum and no valid petition requesting such referendum was filed as of _____, 2014 in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. ___ of 2014 of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, 2014 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2014 of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____, 2014, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2, above.

Tim Sanke

Clerk of the County legislative body, City, Town, or Village Clerk or officer designated by local legislative body

(Seal)

Date: OCTOBER 2, 2014

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Suffolk

I, the undersigned, hereby certify that the foregoing local law contains the correct text and the all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

County Attorney
Title

County of Suffolk

Date: 10/18/2014

DOS-239 (Rev. 11/99)