

# Amendments to New York City's Human Rights Law Strengthen Protections in Employment, Public Accommodations

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Consistent with recent pro-employee and tenant legislation and the stated broad remedial purpose of the New York City Human Rights Law ("NYCHRL"), Mayor Bill de Blasio has signed into law five amendments to the New York City Administrative Code to strengthen civil rights protections; remove language regarding sexual orientation; give the New York City Human Rights Commission the authority to award attorney's fees; add franchiser, franchisee, and lessor to the list of those who cannot discriminate by refusing someone public accommodations on the basis of gender, race, disability, or any other protected class; and make it unlawful to deny someone housing because he or she is a victim of domestic violence.

All employers and businesses with New York City operations should review their compliance with the NYCHRL.

Int. 0814-2015, effective immediately, amends § 8-130 of the NYCHRL by giving recognition to certain court cases (consistent with the 2005 Local Civil Rights Restoration Act) that mandate the NYCHRL be interpreted liberally and independently to accomplish "uniquely broad and remedial purposes," regardless of whether similar civil and human rights provisions under federal or state law have been similarly construed. (*Albunio v. City of New York*, 16 N.Y.3d 472 (2011); *Bennett v. Health Management Systems, Inc.*, 92 A.D.3d 29 (1st Dep't 2011); and the majority opinion in *Williams v. New York City Housing Authority*, 61 A.D.3d 62 (1st Dep't 2009).) It also requires that exceptions and exemptions from the NYCHRL be narrowly construed in an effort "to maximize deterrence of discriminatory conduct."

Int. 0819-2015, also effective immediately, amends § 8-107 of the NYCHRL by repealing subsection 16, which had addressed how the NYCHRL's protections against discrimination on the basis of sexual orientation should be construed. The repealed subsection provided that the NYCHRL should not be construed to: (a) restrict an employer's right to insist that employees meet bona-fide job qualifications; (b) authorize or require employers to make inquiries into the sexual orientation of current or potential employees or adopt affirmative action quotas on the basis of sexual orientation; (c) limit or override any existing exemptions under the NYCHRL; (d) make lawful any act that violates the New York Penal Law; or (e) "[e]ndorse any particular behavior or way of life."

Int. 0818-2015, also effective immediately, amends the attorney's fees provisions of the NYCHRL, § 8-502(g), to include expert fees in attorney's fee awards and to use "the hourly rate charged by attorneys of similar skill and experience litigating similar cases in New York county when it chooses to factor the hourly rate into the attorney's fee award" when determining attorney's fee awards. It also amends § 8-120(a) of the NYCHRL, adding (a)(10) to allow the Commission to award attorney's fees, expert fees, and other costs when adjudicating complaints. The amendments also provide that the Commission may consider factors specific to the matter at hand, such as "(i) the novelty or difficulty of the issues presented; (ii) skill and experience of the complainant's attorney; and (iii) the hourly rate charged by attorneys of similar skill and experience litigating similar cases in New York county," when determining attorney's fee awards.

Int. 0805-2015, going into effect on July 26, 2016, amends § 8-107(4) of the NYCHRL by expanding existing prohibitions related to discrimination in public accommodations

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(previously applied to owners, lessees, proprietors, managers, superintendents, agents, or employees of any place or provider of public accommodation) to include franchisors, franchises and lessors. The amendments also make it unlawful to: (1) offer anyone who is (or is perceived to be) a member of a protected class the same benefits, services, or privileges as other individuals in such a way that members of a protected class do not receive “the full and equal enjoyment” of those benefits on “equal terms and conditions”; and (2) use discriminatory advertisements and public statements.

Int. 0832-2015, also effective on July 26, 2016, amends § 8-107.1 of the NYCHRL by making it unlawful for landlords and other agents of real estate to refuse to sell, rent, lease, or to otherwise deny or withhold an interest in a housing accommodation to an individual because of his or her status as a victim of domestic violence, or as a victim of sex offenses or stalking.

Jackson Lewis attorneys are available to answer inquiries regarding this and other workplace developments.



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