

[Second Reprint]

**SENATE, No. 250**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Co-Sponsored by:**

**Senators Ruiz and Turner**

**SYNOPSIS**

“Fair Chance in Housing Act”; establishes certain housing rights of persons with criminal records; refines restrictions on discrimination based on immigration status, credit history, gender identity, source of income, and involvement in landlord-tenant actions.

**CURRENT VERSION OF TEXT**

As amended by the Senate on March 25, 2021.



**(Sponsorship Updated As Of: 5/6/2021)**

1 AN ACT concerning the housing rights of <sup>2</sup>certain<sup>2</sup> persons <sup>2</sup>,  
 2 including persons<sup>2</sup> with criminal records and <sup>2</sup>persons who face  
 3 discrimination based on immigration status, credit history,  
 4 gender identity, source of income, and involvement in certain  
 5 landlord-tenant actions, and<sup>2</sup> supplementing P.L.1945, c.169  
 6 (C.10:5-1 et seq.) <sup>2</sup>, and amending various parts of the statutory  
 7 law<sup>2</sup>.

8  
 9 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
 10 *of New Jersey:*

11  
 12 1. <sup>2</sup>**[This act]** (New section) Sections 1 through 12 of P.L.     ,  
 13 c. (C.     ) (pending before the Legislature as this bill)<sup>2</sup> shall be  
 14 known and may be cited as the “Fair Chance in Housing Act.”

15  
 16 <sup>1</sup>2. <sup>2</sup>(New section)<sup>2</sup> The Legislature finds and declares that:

17 a. Recent research indicates that New Jersey suffers from a  
 18 tragically high 36-month recidivism rate of over 30 percent;

19 b. Housing instability appears to impact recidivism, considering  
 20 that over one in 10 prisoners in the United States face homelessness  
 21 upon release;

22 c. Research from other states indicates a substantial increase in  
 23 the likelihood of a parolee’s arrest following each change in  
 24 address, further supporting the conclusion that when ex-convicts are  
 25 unable to find stable housing, recidivism becomes more likely and  
 26 public safety is diminished;

27 d. Prior to the 1990s when popular guidance documents began  
 28 advising landlords to conduct criminal background checks on  
 29 prospective tenants, criminal background information was not  
 30 widely-available and convenient to landlords for informing rental  
 31 decisions, but many landlords were nonetheless able to maintain  
 32 safe and healthy rental properties; and

33 e. It is, therefore, necessary and in the public interest for the  
 34 L Legislature to enact legislation to supplement the “Law Against  
 35 Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.), for the purpose  
 36 of establishing certain housing rights of persons with criminal  
 37 records.<sup>1</sup>

38  
 39 <sup>1</sup>**[2.]** <sup>3.1</sup> <sup>2</sup>(New section)<sup>2</sup> As used in <sup>2</sup>**[this act]** sections 1  
 40 through 12 of P.L.     , c. (C.     ) (pending before the Legislature  
 41 as this bill)<sup>2</sup>:

42 "Applicant" means any person considered for, who requests to be  
 43 considered for, or who requests to be considered for tenancy within  
 44 a rental dwelling unit.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCU committee amendments adopted July 16, 2020.

<sup>2</sup>Senate floor amendments adopted March 25, 2021.

1 “Conditional offer” means an offer to rent or lease a rental  
2 dwelling unit to an applicant that is contingent on a subsequent  
3 inquiry into the applicant’s criminal record, or any other eligibility  
4 criteria that the housing provider may lawfully utilize.

5 “Criminal record” means information <sup>2</sup>about an individual<sup>2</sup>  
6 collected by criminal justice agencies <sup>2</sup>[on individuals]<sup>2</sup> consisting  
7 of identifiable descriptions and notations of arrests, detentions,  
8 indictments, <sup>2</sup>criminal complaints,<sup>2</sup> or other formal criminal  
9 charges, and any disposition arising therefrom, including acquittal,  
10 sentencing, correctional supervision, release or conviction,  
11 including, but not limited to, any sentence arising from a verdict or  
12 plea of guilty or nolo contendere, including a sentence of  
13 incarceration, a suspended sentence, a sentence of probation, or a  
14 sentence of conditional discharge.

15 <sup>2</sup>“Director” means the Director of the Division on Civil Rights.

16 <sup>2</sup>“Division” means the Division on Civil Rights in the Department  
17 of Law and Public Safety.<sup>2</sup>

18 “Housing provider” means a landlord, an owner, lessor,  
19 sublessor, assignee, or their agent, or any other person receiving or  
20 entitled to receive rents or benefits for the use or occupancy of any  
21 rental dwelling unit.

22 “Pending criminal accusation” means an existing accusation that  
23 an individual has committed a crime, lodged by a law enforcement  
24 agency through an indictment, information, complaint, or other  
25 formal charge.

26 “Rental dwelling unit” means a dwelling unit offered for rent by  
27 a housing provider for residential purposes, other than a dwelling  
28 unit in an owner-occupied premises of not more than three dwelling  
29 units.

30  
31 <sup>1</sup>[3.] 4.<sup>1</sup> <sup>2</sup>(New section)<sup>2</sup> a. (1) A housing provider shall not  
32 require an applicant to complete any housing application that  
33 includes any inquiries regarding an applicant’s criminal record prior  
34 to the provision of a conditional offer <sup>1</sup>, except that a housing  
35 provider may consider whether an applicant has ever been  
36 convicted of drug-related criminal activity for the manufacture or  
37 production of methamphetamine on the premises of federally  
38 assisted housing, and whether the applicant is subject to a lifetime  
39 registration requirement under a State sex offender registration  
40 program<sup>1</sup>.

41 (2) A housing provider shall not make any oral or written  
42 inquiry regarding an applicant’s criminal record prior to making a  
43 conditional offer.

44 (3) An applicant may provide evidence to the housing provider  
45 demonstrating inaccuracies within the applicant's criminal record or  
46 evidence of rehabilitation or other mitigating factors.

1       b. <sup>1</sup>~~Notwithstanding the provisions of subsection a. of this~~  
 2       section, if an applicant discloses any information regarding the  
 3       applicant's criminal record, by voluntary oral or written disclosure,  
 4       prior to the conditional offer, the housing provider may make  
 5       inquiries regarding the applicant's criminal record prior to making  
 6       the conditional offer.

7       c. <sup>1</sup>~~Prior to accepting any application fee, a housing provider~~  
 8       shall disclose in writing to the applicant:

9       (1) Whether the eligibility criteria of the housing provider  
 10      include the review and consideration of criminal history; and

11      (2) A statement that the applicant, pursuant to subsection a. of  
 12      this section, may provide evidence demonstrating inaccuracies  
 13      within the applicant's criminal record or evidence of rehabilitation  
 14      or other mitigating factors.

15      <sup>1</sup>~~d.]~~ <sup>2</sup>~~c. A housing provider shall not, either before or after~~  
 16      the issuance of a conditional offer, evaluate an applicant based on  
 17      any of the following types of criminal records:

18      (1) arrests or charges that have not resulted in a criminal  
 19      conviction;

20      (2) expunged convictions;

21      (3) convictions on appeal;

22      (4) vacated and otherwise legally nullified convictions;

23      (5) juvenile adjudications of delinquency;

24      (6) records that have been sealed; and

25      (7) criminal convictions arising for conduct committed outside  
 26      of the State that, if committed within the State, would not constitute  
 27      an indictable offense.

28      <sup>1</sup>~~d.~~ After the issuance of a conditional offer to an applicant, a  
 29      housing provider may only consider a criminal record in the  
 30      applicant's history that:

31      (1) <sup>2</sup><sup>1</sup>~~has occurred within~~ <sup>2</sup>~~resulted in a conviction that was~~  
 32      issued within, or if the conviction resulted in a prison sentence that  
 33      sentence concluded within, <sup>1</sup>the <sup>2</sup><sup>1</sup>~~10~~ <sup>2</sup>~~three~~ <sup>1</sup>years immediately  
 34      preceding the issuance of the conditional offer ; and

35      (2) consists of a <sup>2</sup><sup>1</sup>~~pending criminal accusation or a~~ <sup>1</sup>  
 36      <sup>2</sup>~~criminal conviction that, pursuant to subsection b. of~~  
 37      N.J.S.2C:52-2, is not eligible for expungement.

38      e. <sup>2</sup><sup>1</sup>~~(1)]~~ <sup>2</sup>~~A housing provider may withdraw a conditional~~  
 39      offer based on an applicant's criminal record only if the housing  
 40      provider determines, <sup>2</sup><sup>1</sup>~~on balance~~ <sup>2</sup>~~by clear and convincing~~  
 41      evidence <sup>1</sup>, that the withdrawal <sup>2</sup><sup>1</sup>~~achieves a substantial,~~  
 42      legitimate, nondiscriminatory interest. (2) <sup>2</sup>~~is necessary, because~~  
 43      the applicant's criminal conduct renders the applicant unfit for the  
 44      housing arrangement applied for. <sup>1</sup> The housing provider's  
 45      determination of <sup>2</sup><sup>1</sup>~~a nondiscriminatory interest~~ <sup>2</sup>~~unfitness for~~  
 46      housing <sup>1</sup> shall be reasonable in light of the following factors: <sup>2</sup>

- 1       <sup>1</sup>[(a)] <sup>2</sup>[(1)]<sup>1</sup> The nature and severity of the criminal offense;]<sup>2</sup>
- 2       <sup>1</sup>[(b)] <sup>2</sup>[(2)]<sup>1</sup> The age of the applicant at the time of the
- 3 occurrence of the criminal offense;]<sup>2</sup>
- 4       <sup>1</sup>[(c)] <sup>2</sup>[(3)]<sup>1</sup> The time which has elapsed since the occurrence of
- 5 the criminal offense;]<sup>2</sup>
- 6       <sup>1</sup>[(d)] <sup>2</sup>[(4)]<sup>1</sup> Any information produced by the applicant, or
- 7 produced on the applicant's behalf, in regard to the applicant's
- 8 rehabilitation and good conduct since the occurrence of the criminal
- 9 offense;]<sup>2</sup>
- 10       <sup>1</sup>[(e)] <sup>2</sup>[(5)]<sup>1</sup> The degree to which the criminal offense, if it
- 11 reoccurred, would negatively impact the safety of the housing
- 12 provider's other tenants or property;]<sup>2</sup> <sup>1</sup>[and
- 13       (f)] <sup>2</sup>[(6)]<sup>1</sup> Whether the criminal offense occurred on or was
- 14 connected to property that was rented or leased by the applicant <sup>1</sup>;
- 15       (7) Whether the offense arose from an applicant's status as a
- 16 survivor of domestic violence, sexual assault, stalking or dating
- 17 violence;
- 18       (8) Whether the offense arose from an applicant's mental illness
- 19 or other disability; and
- 20       (9) If the applicant was under the influence of alcohol or illegal
- 21 drugs at the time of the offense, whether the applicant is in
- 22 recovery, or has recovered and rehabilitated, from the associated
- 23 addiction. Evidence of recovery and rehabilitation shall include, at
- 24 a minimum:
- 25       (a) the satisfactory compliance of an applicant with the terms
- 26 and conditions of parole or probation, provided that the failure of
- 27 the person to pay fines, fees, and restitution shall not be considered
- 28 noncompliance with terms and conditions of parole or probation;
- 29       (b) educational attainment or vocational or professional training,
- 30 or employment since conviction, including training received or
- 31 employment while incarcerated;
- 32       (c) completion of, or active participation in, rehabilitative
- 33 treatment, including alcohol or drug treatment; and
- 34       (d) letters of recommendation from community organizations,
- 35 counselors, case managers, teachers, faith leaders, community
- 36 leaders, parole officers, and probation officers who have observed
- 37 the applicant<sup>1</sup>.
- 38       f. ]<sup>2</sup> <sup>1</sup>[(1)]<sup>1</sup> <sup>2</sup>[If a housing provider withdraws a conditional
- 39 offer, the housing provider shall provide the applicant <sup>1</sup>, free of
- 40 charge,<sup>1</sup> with <sup>1</sup>a<sup>1</sup> written notification that includes, with
- 41 specificity ]<sup>2</sup> <sup>1</sup>[(1)]<sup>2</sup>;
- 42       (1) an explanation of what was concluded on each of the factors
- 43 considered pursuant to subsection f. of this section;
- 44       (2)<sup>1</sup> the reason or reasons for the withdrawal of the conditional
- 45 offer]<sup>2</sup> <sup>1</sup>[and ]<sup>2</sup>;

1 (3) a copy of the criminal records and other information that the  
 2 housing provider relied on to inform the decision;

3 (4)<sup>1</sup> a notice <sup>1</sup>, in both English and Spanish,<sup>1</sup> that advises the  
 4 applicant of the applicant's right to file a complaint with the  
 5 Attorney General pursuant to section]<sup>2</sup> <sup>1</sup>[6 of this act] <sup>2</sup>[9 of  
 6 P.L. , c. (C. ) (pending before the Legislature as this bill);  
 7 and

8 (5) a written offer, provided in Spanish, to provide the applicant  
 9 with the explanations required pursuant to paragraphs (1) and (2) of  
 10 this subsection in Spanish, if that is the applicant's primary  
 11 language<sup>1</sup>.]<sup>2</sup>

12 <sup>1</sup>[(2) (a) The applicant may request, within 20 days after the  
 13 housing provider's notice of the withdrawal, that the housing  
 14 provider afford the applicant a copy of all information that the  
 15 housing provider relied upon in considering the applicant, including  
 16 criminal records.

17 (b) A housing provider shall provide the information requested  
 18 under subparagraph (a) of this paragraph, free of charge, within 10  
 19 days after receipt of a timely request.

20 g. Nothing set forth in this act shall be construed to prohibit a  
 21 housing provider from requiring an applicant to complete a housing  
 22 application that includes any inquiries regarding an applicant's  
 23 criminal record after the conditional offer is provided or from  
 24 making any oral or written inquiries regarding an applicant's  
 25 criminal record after the conditional offer is provided. The  
 26 provisions of this section shall not preclude a housing provider from  
 27 refusing to provide housing to an applicant based upon the  
 28 applicant's criminal record, unless the criminal record or relevant  
 29 portion thereof has been expunged or erased through executive  
 30 pardon, provided that such refusal is consistent with other  
 31 applicable laws, rules and regulations]<sup>2</sup>[g.]c.<sup>2</sup> A housing provider  
 32 shall apply the standards established by this section to each  
 33 applicant in a nondiscriminatory manner<sup>1</sup>.

34  
 35 <sup>2</sup>5. (New section) a. A housing provider shall not, either before  
 36 or after the issuance of a conditional offer, evaluate an applicant  
 37 based on any of the following types of criminal records:

38 (1) arrests or charges that have not resulted in a criminal  
 39 conviction;

40 (2) expunged convictions;

41 (3) convictions erased through executive pardon;

42 (4) vacated and otherwise legally nullified convictions;

43 (5) juvenile adjudications of delinquency; and

44 (6) records that have been sealed.

45 b. After the issuance of a conditional offer to an applicant, a  
 46 housing provider may only consider a criminal record in the  
 47 applicant's history that:

1     (1) resulted in a conviction for murder, aggravated sexual  
2     assault, kidnapping, arson, human trafficking, or any crime that  
3     resulted in lifetime registration in a state sex offender registry;

4     (2) is for an indictable offense of the first degree that was  
5     issued, or if the conviction resulted in a prison sentence that  
6     sentence concluded, within the six years immediately preceding the  
7     issuance of the conditional offer;

8     (3) is for an indictable offense of the second or third degree that  
9     was issued, or if the conviction resulted in a prison sentence that  
10    concluded, within the four years immediately preceding the  
11    issuance of the conditional offer; or

12    (4) is for an indictable offense of the fourth degree that was  
13    issued, or if the conviction resulted in a prison sentence that  
14    concluded, within one year immediately preceding the issuance of  
15    the conditional offer.

16    c. (1) a housing provider may withdraw a conditional offer  
17    based on an applicant's criminal record only if the housing provider  
18    determines, by preponderance of the evidence, that the withdrawal  
19    is necessary to fulfill a substantial, legitimate, and  
20    nondiscriminatory interest.

21    (2) if a housing provider withdraws a conditional offer, the  
22    housing provider shall provide the applicant with written  
23    notification that includes, with specificity, the reason or reasons for  
24    the withdrawal of the conditional offer and an opportunity to appeal  
25    the denial by providing evidence to the housing provider  
26    demonstrating inaccuracies within the applicant's criminal record or  
27    evidence of rehabilitation or other mitigating factors.

28    (3) the housing provider shall perform an individualized  
29    assessment of the application in light of the following factors:

30    (a) the nature and severity of the criminal offense;

31    (b) the age of the applicant at the time of the occurrence of the  
32    criminal offense;

33    (c) the time which has elapsed since the occurrence of the  
34    criminal offense;

35    (d) any information produced by the applicant, or produced on  
36    the applicant's behalf, in regard to the applicant's rehabilitation and  
37    good conduct since the occurrence of the criminal offense;

38    (e) the degree to which the criminal offense, if it reoccurred,  
39    would negatively impact the safety of the housing provider's other  
40    tenants or property; and

41    (f) whether the criminal offense occurred on or was connected to  
42    property that was rented or leased by the applicant.

43    d. (1) the applicant may request, within 30 days after the  
44    housing provider's notice of the withdrawal, that the housing  
45    provider afford the applicant a copy of all information that the  
46    housing provider relied upon in considering the applicant, including  
47    criminal records.

1     (2) a housing provider shall provide the information requested  
2     under paragraph (1) of this subsection, free of charge, within 10  
3     days after receipt of a timely request.<sup>2</sup>  
4

5     <sup>2</sup>6. (New section) a. The director shall prepare:

6     (1) a model disclosure statement as indicated in subsection b. of  
7     section 4 of P.L. c. (C. ) (pending before the Legislature as  
8     this bill) which provides notice that a housing provider intends to  
9     review and consider a person's criminal record in determining  
10    eligibility for housing or in taking any other adverse housing action  
11    against that person. The statement shall also provide an explanation  
12    of the criminal records that may be considered and the manner in  
13    which they may be considered, in accordance with the provisions of  
14    section 5 of P.L. c. (C. ) (pending before the Legislature as  
15    this bill). The statement shall also notify the person of the right to  
16    dispute, within 10 days of receiving such statement, the relevance  
17    and accuracy of the criminal record and to offer evidence of any  
18    mitigating facts or circumstances, including but not limited to the  
19    person's rehabilitation and good conduct since the criminal offense  
20    in question; and

21    (2) a model notice that provides notice that a housing provider  
22    has withdrawn a conditional offer or taken an adverse housing  
23    action based on a person's criminal record, provides space for the  
24    housing provider to identify with specificity the reason or reasons  
25    for withdrawing the conditional offer or taking the adverse housing  
26    action. The notification form shall also notify the person of the  
27    right to request from the housing provider a copy of all information  
28    upon which the housing provider relied in reaching its decision,  
29    including criminal records, and of the right to file a complaint with  
30    the Attorney General or pursue the other remedies pursuant to  
31    P.L.1945, c.169 (C.10:5-1 et seq.), as well as the applicable statute  
32    of limitations, and shall include such other additional information as  
33    the director deems appropriate.

34    b. The model documents prepared pursuant to this section shall  
35    be made available on the division's Internet website, at no cost, and  
36    shall be in English, Spanish, and in any other language the director  
37    deems appropriate.<sup>2</sup>  
38

39    <sup>1</sup>[4. Unless otherwise permitted or required by law, a] <sup>2</sup>[5.] 7.  
40    (New section)<sup>2</sup> a. A<sup>1</sup> housing provider shall not knowingly or  
41    purposefully publish, or cause to be published, any housing  
42    advertisement that explicitly provides that the housing provider will  
43    not consider any applicant who has been arrested or convicted of  
44    one or more crimes or offenses <sup>1</sup>, except for drug-related criminal  
45    activity for the manufacture or production of methamphetamine on  
46    the premises of federally assisted housing, and whether the



1 applicant is subject to a lifetime registration requirement under a  
2 State sex offender registration program.

3 b. <sup>2</sup>A housing provider shall not print, publish, circulate, issue,  
4 display, post, or mail, or cause to be printed, published, circulated,  
5 issued, displayed, posted or mailed any statement, advertisement,  
6 publication or sign, or use any form of application for the rental,  
7 lease, or sublease of any real property or part or portion thereof or  
8 make any record or inquiry in connection with the prospective  
9 rental, lease, or sublease of any real property or part or portion  
10 thereof which expresses, directly or indirectly, any unlawful  
11 limitation, specification or discrimination as to criminal record,  
12 except as permitted by this act and for drug-related criminal activity  
13 for the manufacture or production of methamphetamine on the  
14 premises of federally assisted housing, and whether the applicant is  
15 subject to a lifetime registration requirement under a State sex  
16 offender registration program.

17 c.<sup>2</sup> Unless otherwise required by law, a housing provider shall  
18 not:

19 (1) distribute or disseminate an applicant's criminal record to  
20 any person who is not expected to use the criminal record for the  
21 purpose of evaluating the applicant in a manner consistent with  
22 sections 1 through 12 of P.L. c. (C. ) (pending before the  
23 Legislature as this bill); or

24 (2) use an applicant's criminal record for a purpose that is not  
25 consistent with sections 1 through 12 of P.L. c. (C. )  
26 (pending before the Legislature as this bill)<sup>1</sup>.

27  
28 <sup>2</sup>8. (New section) To encourage residential landlords to provide  
29 housing opportunities to formerly incarcerated individuals,  
30 landlords subject to the provisions of sections 1 through 12 of  
31 P.L. c. (C. ) (pending before the Legislature as this bill) shall  
32 be immune from liability in any civil action arising as a result of the  
33 landlord's decision to rent to individuals with a criminal record or  
34 who were otherwise convicted of a criminal offense, or as a result  
35 of a landlord's decision to not engage in a criminal background  
36 screening.<sup>2</sup>

37  
38 <sup>1</sup>[5. This act shall not apply:

39 a. If a federal law or regulation requires the housing provider  
40 to consider an applicant's criminal records for residential leasing  
41 purposes; or

42 b. If a federal law or regulation otherwise allows for the denial  
43 of an applicant due to certain criminal convictions.]<sup>1</sup>  
44

45 <sup>2</sup>[<sup>1</sup>6.] 9. (New section)<sup>2</sup> A housing provider shall not require  
46 an applicant to submit to a drug or alcohol test, or request the

1 applicant's consent to obtain information from a drug abuse  
 2 treatment facility.<sup>1</sup>

3  
 4 <sup>2</sup>**[17.]** 10. (New section)<sup>2</sup> A person shall not interfere with,  
 5 restrain, or deny the exercise of, or the attempt to exercise, any right  
 6 protected under <sup>2</sup>sections 1 through 12 of<sup>2</sup> P.L. , c. (C. )  
 7 (pending before the Legislature as this bill). It shall be a rebuttable  
 8 presumption of unlawful retaliation if a housing provider or any  
 9 other person takes an adverse action against a person within 90 days  
 10 of the person's exercise of the rights protected in <sup>2</sup>sections 1  
 11 through 12 of<sup>2</sup> P.L. , c. (C. ) (pending before the Legislature  
 12 as this bill). This rebuttable presumption shall be sufficient to  
 13 establish unlawful retaliation, unless the housing provider or other  
 14 person is able to demonstrate that the action would have been taken  
 15 in the absence of such protected activity.<sup>1</sup>

16  
 17 <sup>2</sup>**[18.]** 11. (New section)<sup>2</sup> The <sup>2</sup>**[Division on Civil Rights]**  
 18 division<sup>2</sup> shall maintain data on the number of complaints filed  
 19 pursuant to <sup>2</sup>sections 1 through 12 of<sup>2</sup> P.L. , c. (C. )  
 20 (pending before the Legislature as this bill), demographic  
 21 information on the <sup>2</sup>**[complaints]** complainants<sup>2</sup>, the identity of the  
 22 housing providers, the number of investigations conducted, and the  
 23 disposition of every complaint and investigation, which shall be  
 24 published and posted online annually.<sup>1</sup>

25  
 26 <sup>1</sup>**[6.]** <sup>2</sup>**[9.]**<sup>1</sup> a. A person claiming to be aggrieved pursuant to  
 27 this act may file a complaint or action with the Division on Civil  
 28 Rights or in the Superior Court of New Jersey alleging a <sup>2</sup>**[12. (New**  
 29 section) A<sup>2</sup> violation <sup>2</sup>of sections 1 through 12 of P.L. ,  
 30 c. (C. ) (pending before the Legislature as this bill) shall  
 31 constitute unlawful discrimination under section 11<sup>2</sup> of the "Law  
 32 Against Discrimination," P.L.1945, c.169 <sup>2</sup>**[(C.10:5-1 et seq.)]**

33 b. Any housing provider who violates this act shall be liable for  
 34 a civil penalty in an amount not to exceed \$1,000 for the first  
 35 violation, \$5,000 for the second violation, and \$10,000 for each  
 36 subsequent violation collectible by the Attorney General in a  
 37 summary proceeding pursuant to the "Penalty Enforcement Law of  
 38 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) <sup>2</sup>**[(C.10:5-12)]**.

39  
 40 <sup>2</sup>**[13. (New section)]** a. Any person, including but not limited to,  
 41 any owner, lessee, sublessee, assignee or managing agent of, or  
 42 other person having the right of ownership or possession of or the  
 43 right to sell, rent, lease, assign, or sublease any real property or part  
 44 or portion thereof, real estate broker, real estate salesperson, or  
 45 employee or agent of any of these, who refuses to rent or lease, or

1 refuses to offer to rent or lease, any real property or portion thereof  
2 based on a prospective tenant's involvement in a landlord-tenant  
3 action that resulted in a final judgment against the prospective  
4 tenant within three years of the effective date of the prospective  
5 rental or lease agreement, shall provide the prospective tenant with  
6 written notification, provided using a model notification form made  
7 available on the division's Internet website pursuant to subsection c.  
8 of this section, in which the person includes, with specificity and in  
9 the language the applicant best understands from among English,  
10 Spanish or any other language in which the division has made the  
11 model disclosure form available pursuant to subsection c. of this  
12 section, the reason or reasons for the refusal to rent or lease or offer  
13 to rent or lease to the prospective tenant.

14 b. Where there is no final judgment against a prospective tenant  
15 within three years of the effective date of the prospective rental or  
16 lease agreement, there shall be a rebuttable presumption that a  
17 person is in violation of paragraph (6) of subsection g. or paragraph  
18 (6) of subsection h. of section 11 of P.L.1945, c.169 (C.10:5-12), as  
19 the case may be, if it is established that the person requested  
20 information from a tenant screening bureau relating to the  
21 prospective tenant or otherwise inspected court records relating to  
22 the prospective tenant which disclose a past or pending landlord-  
23 tenant action and the person subsequently refuses to rent or lease or  
24 offer to rent or lease to the prospective tenant.

25 c. (1) the division shall prepare a model notification form as  
26 indicated in subsection a. of this section which provides notice to a  
27 prospective tenant that a person refuses to rent or lease, or refuses  
28 to offer to rent or lease, any real property or portion thereof and  
29 provides space for the person to identify with specificity the reason  
30 or reasons for the refusal to rent or lease or offer to rent or lease to  
31 the prospective tenant. The notification form shall also advise the  
32 prospective tenant of the right to file a complaint with the Attorney  
33 General or pursue the other remedies pursuant to P.L.1945, c.169  
34 (C.10:5-1 et seq.), as well as the applicable statute of limitations,  
35 and shall include such other information as the director deems  
36 appropriate.

37 (2) the model notification form prepared pursuant to this  
38 subsection shall be made available on the division's Internet  
39 website, at no cost, and shall be in English, Spanish, and in any  
40 other language the director deems appropriate.<sup>2</sup>

41  
42 <sup>2</sup>14. (New section) a. It shall not be an unlawful discrimination  
43 under P.L.1945, c. 169 (C.10:5-1 et seq.), for any person to  
44 discriminate on the basis of immigration or citizenship status, or to

1 make any inquiry as to a person's immigration or citizenship status,  
2 or to give preference to a person who is a citizen or national of the  
3 United States over an equally qualified person who is a not a citizen  
4 or national of the United States, when such discrimination, inquiry,  
5 or preference is required or expressly permitted by federal or state  
6 law or regulation. The provisions of P.L.1945, c.169 (C.10:5-1 et  
7 seq.) shall not be interpreted to prohibit inquiries or determinations  
8 based on immigration or citizenship status when such actions are  
9 necessary to obtain the benefits of a federal or State program.

10 b. The provisions of P.L.1945, c.169 (C.10:5-1 et seq.), shall not  
11 be interpreted to prohibit disclosures of information regarding or  
12 relating to the immigration or citizenship status of a person, where  
13 required or expressly permitted by federal or State law or regulation  
14 or when in compliance with any legal obligation under a subpoena,  
15 warrant issued by a court, or order issued by a court.

16 c. The provisions of P.L.1945, c.169 (C.10:5-1 et seq.), shall not  
17 be interpreted to prohibit verification of immigration or citizenship  
18 status or any discrimination based upon verified immigration or  
19 citizenship status, where required or expressly permitted by federal  
20 or State law or regulation. The provisions of P.L.1945, c.169  
21 (C.10:5-1 et seq.), shall not be construed to alter an employer's  
22 rights or obligations under the federal "Immigration and Nationality  
23 Act," 8 U.S.C. s.1324a, regarding obtaining documentation  
24 evidencing identity and authorization for employment. Any action  
25 taken by an employer that is required by 8 U.S.C. s.1324a is not a  
26 violation of P.L.1945, c.169 (C.10:5-1 et seq.).<sup>2</sup>

27  
28 <sup>2</sup>15. Section 3 of P.L.1945, c.169 (C.10:5-3) is amended to read  
29 as follows:

30 3. The Legislature finds and declares that practices of  
31 discrimination against any of its inhabitants, because of race, creed,  
32 color, national origin, immigration or citizenship status, ancestry,  
33 age, sex, gender identity **【or】** gender expression, affectional or  
34 sexual orientation, marital status, familial status, liability for service  
35 in the Armed Forces of the United States, disability **【or】** ,  
36 nationality, source of lawful income used for rental or mortgage  
37 payments, or criminal record, are matters of concern to the  
38 government of the State, and that such discrimination threatens not  
39 only the rights and proper privileges of the inhabitants of the State  
40 but menaces the institutions and foundation of a free democratic  
41 State; provided, however, that nothing in this expression of policy  
42 prevents the making of legitimate distinctions between citizens and  
43 aliens when required by federal law or otherwise necessary to  
44 promote the national interest.

1 The Legislature further declares its opposition to such practices  
2 of discrimination when directed against any person by reason of the  
3 race, creed, color, national origin, immigration or citizenship status,  
4 ancestry, age, sex, gender identity **【or】** gender expression,  
5 affectional or sexual orientation, marital status, liability for service  
6 in the Armed Forces of the United States, disability **【or】** ,  
7 nationality, source of lawful income used for rental or mortgage  
8 payments, or criminal record of that person or that person's family  
9 members, partners, members, stockholders, directors, officers,  
10 managers, superintendents, agents, employees, business associates,  
11 suppliers, or customers, in order that the economic prosperity and  
12 general welfare of the inhabitants of the State may be protected and  
13 ensured.

14 The Legislature further finds that because of discrimination,  
15 people suffer personal hardships, and the State suffers a grievous  
16 harm. The personal hardships include: economic loss; time loss;  
17 physical and emotional stress; and in some cases severe emotional  
18 trauma, illness, homelessness or other irreparable harm resulting  
19 from the strain of employment controversies; relocation, search and  
20 moving difficulties; anxiety caused by lack of information,  
21 uncertainty, and resultant planning difficulty; career, education,  
22 family and social disruption; and adjustment problems, which  
23 particularly impact on those protected by this act. Such harms  
24 have, under the common law, given rise to legal remedies, including  
25 compensatory and punitive damages. The Legislature intends that  
26 such damages be available to all persons protected by this act and  
27 that this act shall be liberally construed in combination with other  
28 protections available under the laws of this State.<sup>2</sup>

29 (cf: P.L.2019, c.436, s.1)

30  
31 <sup>2</sup>16. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read  
32 as follows:

33 5. As used in P.L.1945, c.169 (C.10:5-1 et seq.), unless a  
34 different meaning clearly appears from the context:

35 a. "Person" includes one or more individuals, partnerships,  
36 associations, organizations, labor organizations, corporations, legal  
37 representatives, trustees, trustees in bankruptcy, receivers, and  
38 fiduciaries.

39 b. "Employment agency" includes any person undertaking to  
40 procure employees or opportunities for others to work.

41 c. "Labor organization" includes any organization which exists  
42 and is constituted for the purpose, in whole or in part, of collective  
43 bargaining, or of dealing with employers concerning grievances,  
44 terms or conditions of employment, or of other mutual aid or  
45 protection in connection with employment.

46 d. "Unlawful employment practice" and "unlawful  
47 discrimination" include only those unlawful practices and acts  
48 specified in section 11 of P.L.1945, c.169 (C.10:5-12).

- 1 e. "Employer" includes all persons as defined in subsection a.  
2 of this section unless otherwise specifically exempt under another  
3 section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State,  
4 any political or civil subdivision thereof, and all public officers,  
5 agencies, boards, or bodies.
- 6 f. "Employee" does not include any individual employed in the  
7 domestic service of any person.
- 8 g. "Liability for service in the Armed Forces of the United  
9 States" means subject to being ordered as an individual or member  
10 of an organized unit into active service in the Armed Forces of the  
11 United States by reason of membership in the National Guard, naval  
12 militia or a reserve component of the Armed Forces of the United  
13 States, or subject to being inducted into such armed forces through  
14 a system of national selective service.
- 15 h. "Division" means the "Division on Civil Rights" created by  
16 P.L.1945, c.169 (C.10:5-1 et seq.).
- 17 i. "Attorney General" means the Attorney General of the State  
18 of New Jersey or the Attorney General's representative or designee.
- 19 j. "Commission" means the Commission on Civil Rights  
20 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 21 k. "Director" means the Director of the Division on Civil  
22 Rights.
- 23 l. "A place of public accommodation" shall include, but not be  
24 limited to: any tavern, roadhouse, hotel, motel, trailer camp,  
25 summer camp, day camp, or resort camp, whether for entertainment  
26 of transient guests or accommodation of those seeking health,  
27 recreation, or rest; any producer, manufacturer, wholesaler,  
28 distributor, retail shop, store, establishment, or concession dealing  
29 with goods or services of any kind; any restaurant, eating house, or  
30 place where food is sold for consumption on the premises; any  
31 place maintained for the sale of ice cream, ice and fruit preparations  
32 or their derivatives, soda water or confections, or where any  
33 beverages of any kind are retailed for consumption on the premises;  
34 any garage, any public conveyance operated on land or water or in  
35 the air or any stations and terminals thereof; any bathhouse,  
36 boardwalk, or seashore accommodation; any auditorium, meeting  
37 place, or hall; any theatre, motion-picture house, music hall, roof  
38 garden, skating rink, swimming pool, amusement and recreation  
39 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
40 pool parlor, or other place of amusement; any comfort station; any  
41 dispensary, clinic, or hospital; any public library; and any  
42 kindergarten, primary and secondary school, trade or business  
43 school, high school, academy, college and university, or any  
44 educational institution under the supervision of the State Board of  
45 Education or the Commissioner of Education of the State of New  
46 Jersey. Nothing herein contained shall be construed to include or to  
47 apply to any institution, bona fide club, or place of accommodation,  
48 which is in its nature distinctly private; nor shall anything herein

1 contained apply to any educational facility operated or maintained  
2 by a bona fide religious or sectarian institution, and the right of a  
3 natural parent or one in loco parentis to direct the education and  
4 upbringing of a child under his control is hereby affirmed; nor shall  
5 anything herein contained be construed to bar any private secondary  
6 or post-secondary school from using in good faith criteria other than  
7 race, creed, color, national origin, ancestry, gender identity, or  
8 expression or affectional or sexual orientation in the admission of  
9 students.

10 m. "A publicly assisted housing accommodation" shall include  
11 all housing built with public funds or public assistance pursuant to  
12 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,  
13 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,  
14 c.184, and all housing financed in whole or in part by a loan,  
15 whether or not secured by a mortgage, the repayment of which is  
16 guaranteed or insured by the federal government or any agency  
17 thereof.

18 n. The term "real property" includes real estate, lands,  
19 tenements and hereditaments, corporeal and incorporeal, and  
20 leaseholds, provided, however, that, except as to publicly assisted  
21 housing accommodations and except as set forth in paragraphs (2)  
22 and (3) of subsection g. and paragraph (3) of subsection h. of  
23 section 11 of P.L.1945, c.169 (C.10:5-12), the provisions of this act  
24 shall not apply to the rental **【**: (1) of a single apartment or flat in a  
25 two-family dwelling, the other occupancy unit of which is occupied  
26 by the owner as a residence; or (2)**】** of a room or rooms to another  
27 person or persons by the owner or occupant of a one-family  
28 dwelling occupied by the owner or occupant as a residence at the  
29 time of such rental. Nothing herein contained shall be construed to  
30 bar any religious or denominational institution or organization, or  
31 any organization operated for charitable or educational purposes,  
32 which is operated, supervised, or controlled by or in connection  
33 with a religious organization, in the sale, lease, or rental of real  
34 property, from limiting admission to or giving preference to persons  
35 of the same religion or denomination or from making such selection  
36 as is calculated by such organization to promote the religious  
37 principles for which it is established or maintained. Nor does any  
38 provision under this act regarding discrimination on the basis of  
39 familial status apply with respect to housing for older persons.

40 o. "Real estate broker" includes a person, firm, or corporation  
41 who, for a fee, commission, or other valuable consideration, or by  
42 reason of promise or reasonable expectation thereof, lists for sale,  
43 sells, exchanges, buys or rents, or offers or attempts to negotiate a  
44 sale, exchange, purchase, or rental of real estate or an interest  
45 therein, or collects or offers or attempts to collect rent for the use of  
46 real estate, or solicits for prospective purchasers or assists or directs  
47 in the procuring of prospects or the negotiation or closing of any  
48 transaction which does or is contemplated to result in the sale,

1 exchange, leasing, renting, or auctioning of any real estate, or  
2 negotiates, or offers or attempts or agrees to negotiate a loan  
3 secured or to be secured by mortgage or other encumbrance upon or  
4 transfer of any real estate for others; or any person who, for  
5 pecuniary gain or expectation of pecuniary gain conducts a public  
6 or private competitive sale of lands or any interest in lands. In the  
7 sale of lots, the term "real estate broker" shall also include any  
8 person, partnership, association, or corporation employed by or on  
9 behalf of the owner or owners of lots or other parcels of real estate,  
10 at a stated salary, or upon a commission, or upon a salary and  
11 commission or otherwise, to sell such real estate, or any parts  
12 thereof, in lots or other parcels, and who shall sell or exchange, or  
13 offer or attempt or agree to negotiate the sale or exchange, of any  
14 such lot or parcel of real estate.

15 p. "Real estate salesperson" includes any person who, for  
16 compensation, valuable consideration or commission, or other thing  
17 of value, or by reason of a promise or reasonable expectation  
18 thereof, is employed by and operates under the supervision of a  
19 licensed real estate broker to sell or offer to sell, buy or offer to buy  
20 or negotiate the purchase, sale, or exchange of real estate, or offers  
21 or attempts to negotiate a loan secured or to be secured by a  
22 mortgage or other encumbrance upon or transfer of real estate, or to  
23 lease or rent, or offer to lease or rent any real estate for others, or to  
24 collect rents for the use of real estate, or to solicit for prospective  
25 purchasers or lessees of real estate, or who is employed by a  
26 licensed real estate broker to sell or offer to sell lots or other parcels  
27 of real estate, at a stated salary, or upon a commission, or upon a  
28 salary and commission, or otherwise to sell real estate, or any parts  
29 thereof, in lots or other parcels.

30 q. "Disability" means physical or sensory disability, infirmity,  
31 malformation, or disfigurement which is caused by bodily injury,  
32 birth defect, or illness including epilepsy and other seizure  
33 disorders, and which shall include, but not be limited to, any degree  
34 of paralysis, amputation, lack of physical coordination, blindness or  
35 visual impairment, deafness or hearing impairment, muteness or  
36 speech impairment, or physical reliance on a service or guide dog,  
37 wheelchair, or other remedial appliance or device, or any mental,  
38 psychological, or developmental disability, including autism  
39 spectrum disorders, resulting from anatomical, psychological,  
40 physiological, or neurological conditions which prevents the typical  
41 exercise of any bodily or mental functions or is demonstrable,  
42 medically or psychologically, by accepted clinical or laboratory  
43 diagnostic techniques. Disability shall also mean AIDS or HIV  
44 infection.

45 r. "Blind person" or "person who is blind" means any  
46 individual whose central visual acuity does not exceed 20/200 in the  
47 better eye with correcting lens or whose visual acuity is better than  
48 20/200 if accompanied by a limit to the field of vision in the better



- 1 eye to such a degree that its widest diameter subtends an angle of  
2 no greater than 20 degrees.
- 3 s. "Guide dog" means a dog used to assist persons who are  
4 deaf, or which is fitted with a special harness so as to be suitable as  
5 an aid to the mobility of a person who is blind, and is used by a  
6 person who is blind and has satisfactorily completed a specific  
7 course of training in the use of such a dog, and has been trained by  
8 an organization generally recognized by agencies involved in the  
9 rehabilitation of persons with disabilities, including, but not limited  
10 to, those persons who are blind or deaf, as reputable and competent  
11 to provide dogs with training of this type.
- 12 t. "Guide or service dog trainer" means any person who is  
13 employed by an organization generally recognized by agencies  
14 involved in the rehabilitation of persons with disabilities, including,  
15 but not limited to, those persons who are blind, have visual  
16 impairments, or are deaf or have hearing impairments, as reputable  
17 and competent to provide dogs with training, as defined in this  
18 section, and who is actually involved in the training process.
- 19 u. "Housing accommodation" means any publicly assisted  
20 housing accommodation or any real property, or portion thereof,  
21 which is used or occupied, or is intended, arranged, or designed to  
22 be used or occupied, as the home, residence, or sleeping place of  
23 one or more persons, but shall not include any single family  
24 residence the occupants of which rent, lease, or furnish for  
25 compensation not more than one room therein.
- 26 v. "Public facility" means any place of public accommodation  
27 and any street, highway, sidewalk, walkway, public building, and  
28 any other place or structure to which the general public is regularly,  
29 normally, or customarily permitted or invited.
- 30 w. "Deaf person" or "person who is deaf" means any person  
31 whose hearing is so severely impaired that the person is unable to  
32 hear and understand conversational speech through the unaided ear  
33 alone, and who must depend primarily on an assistive listening  
34 device or visual communication such as writing, lip reading, sign  
35 language, and gestures.
- 36 x. "Atypical hereditary cellular or blood trait" means sickle cell  
37 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
38 fibrosis trait.
- 39 y. "Sickle cell trait" means the condition wherein the major  
40 natural hemoglobin components present in the blood of the  
41 individual are hemoglobin A (normal) and hemoglobin S (sickle  
42 hemoglobin) as defined by standard chemical and physical analytic  
43 techniques, including electrophoresis; and the proportion of  
44 hemoglobin A is greater than the proportion of hemoglobin S or one  
45 natural parent of the individual is shown to have only normal  
46 hemoglobin components (hemoglobin A, hemoglobin A2,  
47 hemoglobin F) in the normal proportions by standard chemical and  
48 physical analytic tests.

- 1       z. "Hemoglobin C trait" means the condition wherein the major  
2 natural hemoglobin components present in the blood of the  
3 individual are hemoglobin A (normal) and hemoglobin C as defined  
4 by standard chemical and physical analytic techniques, including  
5 electrophoresis; and the proportion of hemoglobin A is greater than  
6 the proportion of hemoglobin C or one natural parent of the  
7 individual is shown to have only normal hemoglobin components  
8 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal  
9 proportions by standard chemical and physical analytic tests.
- 10       aa. "Thalassemia trait" means the presence of the thalassemia  
11 gene which in combination with another similar gene results in the  
12 chronic hereditary disease Cooley's anemia.
- 13       bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
14 which in combination with another similar gene results in the  
15 chronic hereditary disease Tay-Sachs.
- 16       cc. "Cystic fibrosis trait" means the presence of the cystic  
17 fibrosis gene which in combination with another similar gene  
18 results in the chronic hereditary disease cystic fibrosis.
- 19       dd. "Service dog" means any dog individually trained to the  
20 requirements of a person with a disability including, but not limited  
21 to minimal protection work, rescue work, pulling a wheelchair or  
22 retrieving dropped items. This term shall include a "seizure dog"  
23 trained to alert or otherwise assist persons with epilepsy or other  
24 seizure disorders.
- 25       ee. "Qualified Medicaid applicant" means an individual who is a  
26 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 27       ff. "AIDS" means acquired immune deficiency syndrome as  
28 defined by the Centers for Disease Control and Prevention of the  
29 United States Public Health Service.
- 30       gg. "HIV infection" means infection with the human  
31 immunodeficiency virus or any other related virus identified as a  
32 probable causative agent of AIDS.
- 33       hh. "Affectional or sexual orientation" means male or female  
34 heterosexuality, homosexuality, or bisexuality by inclination,  
35 practice, identity, or expression, having a history thereof or being  
36 perceived, presumed, or identified by others as having such an  
37 orientation.
- 38       ii. "Heterosexuality" means affectional, emotional, or physical  
39 attraction or behavior which is primarily directed towards persons  
40 of the other gender.
- 41       jj. "Homosexuality" means affectional, emotional, or physical  
42 attraction or behavior which is primarily directed towards persons  
43 of the same gender.
- 44       kk. "Bisexuality" means affectional, emotional, or physical  
45 attraction or behavior which is directed towards persons of either  
46 gender.
- 47       ll. "Familial status" means being the natural parent of a child,  
48 the adoptive parent of a child, the resource family parent of a child,

1 having a "parent and child relationship" with a child as defined by  
2 State law, or having sole or joint legal or physical custody, care,  
3 guardianship, or visitation with a child, or any person who is  
4 pregnant or is in the process of securing legal custody of any  
5 individual who has not attained the age of 18 years.

6 mm. "Housing for older persons" means housing:

7 (1) provided under any State program that the Attorney General  
8 determines is specifically designed and operated to assist persons  
9 who are elderly (as defined in the State program); or provided under  
10 any federal program that the United States Department of Housing  
11 and Urban Development determines is specifically designed and  
12 operated to assist persons who are elderly (as defined in the federal  
13 program); or

14 (2) intended for, and solely occupied by, persons 62 years of age  
15 or older; or

16 (3) intended and operated for occupancy by at least one person  
17 55 years of age or older per unit. In determining whether housing  
18 qualifies as housing for older persons under this paragraph, the  
19 Attorney General shall adopt regulations which require at least the  
20 following factors:

21 (a) the existence of significant facilities and services  
22 specifically designed to meet the physical or social needs of older  
23 persons, or if the provision of such facilities and services is not  
24 practicable, that such housing is necessary to provide important  
25 housing opportunities for older persons; and

26 (b) that at least 80 percent of the units are occupied by at least  
27 one person 55 years of age or older per unit; and

28 (c) the publication of, and adherence to, policies and procedures  
29 which demonstrate an intent by the owner or manager to provide  
30 housing for persons 55 years of age or older.

31 Housing shall not fail to meet the requirements for housing for  
32 older persons by reason of: persons residing in such housing as of  
33 September 13, 1988 not meeting the age requirements of this  
34 subsection, provided that new occupants of such housing meet the  
35 age requirements of this subsection; or unoccupied units, provided  
36 that such units are reserved for occupancy by persons who meet the  
37 age requirements of this subsection.

38 nn. "Genetic characteristic" means any inherited gene or  
39 chromosome, or alteration thereof, that is scientifically or medically  
40 believed to predispose an individual to a disease, disorder, or  
41 syndrome, or to be associated with a statistically significant  
42 increased risk of development of a disease, disorder, or syndrome.

43 oo. "Genetic information" means the information about genes,  
44 gene products, or inherited characteristics that may derive from an  
45 individual or family member.

46 pp. "Genetic test" means a test for determining the presence or  
47 absence of an inherited genetic characteristic in an individual,  
48 including tests of nucleic acids such as DNA, RNA, and

1 mitochondrial DNA, chromosomes, or proteins in order to identify a  
2 predisposing genetic characteristic.

3 qq. "Domestic partnership" means a domestic partnership  
4 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

5 **【**rr. "Gender identity or expression" means having or being  
6 perceived as having a gender related identity or expression whether  
7 or not stereotypically associated with a person's assigned sex at  
8 birth.**】** (Deleted by amendment, P.L. , c. (pending before the  
9 Legislature as this bill)

10 ss. "Civil Union" means a legally recognized union of two  
11 eligible individuals established pursuant to R.S.37:1-1 et seq. and  
12 P.L.2006, c.103 (C.37:1-28 et al.).

13 tt. "Premium wages" means additional remuneration for night,  
14 weekend, or holiday work, or for standby or irregular duty.

15 uu. "Premium benefit" means an employment benefit, such as  
16 seniority, group life insurance, health insurance, disability  
17 insurance, sick leave, annual leave, or an educational or pension  
18 benefit that is greater than the employment benefit due the  
19 employee for an equivalent period of work performed during the  
20 regular work schedule of the employee.

21 vv. "Race" is inclusive of traits historically associated with race,  
22 including, but not limited to, hair texture, hair types, and protective  
23 hairstyles.

24 ww."Protective hairstyles" includes, but is not limited to, such  
25 hairstyles as braids, locks, and twists.

26 xx. "Family member" means a child, parent, parent-in-law,  
27 sibling, grandparent, grandchild, spouse, partner in a civil union  
28 couple, domestic partner, or any other individual related by blood to  
29 the person, and any other individual that the person shows to have a  
30 close association with the person which is the equivalent of a family  
31 relationship.

32 yy. "Source of lawful income" means any source of income  
33 lawfully obtained or any source of rental or mortgage payment  
34 lawfully obtained, including, but not limited to, any federal, State,  
35 or local public assistance or housing assistance voucher or funds,  
36 including Section 8 housing choice vouchers, temporary rental  
37 assistance programs or State rental assistance programs; rental  
38 assistance funds provided by a nonprofit organization; federal,  
39 State, or local benefits, including disability benefits and veterans'  
40 benefits; court-ordered payments, including, but not limited to,  
41 child support, alimony, or damages; and any form of lawful  
42 currency tendered, without regard to whether such currency is  
43 tendered in the form of cash, check, money order, or other lawful  
44 means.

45 zz. "Consumer credit history" means an individual's  
46 creditworthiness, credit standing, credit capacity, and borrowing or  
47 payment history, as indicated by: (1) a consumer credit report; (2) a  
48 credit score; or (3) information a person obtains directly from the

1 individual regarding (i) details about credit accounts, including the  
2 individual's number of credit accounts, late or missed payments,  
3 charged-off debts, items in collections, credit limit, or prior credit  
4 report inquiries, or (ii) bankruptcies, judgments, or liens. As used  
5 in this subsection, a consumer credit report shall include any written  
6 or other communication of any information by a consumer reporting  
7 agency that bears on a consumer's creditworthiness, credit standing,  
8 credit capacity or credit history.

9 aaa. "Criminal record" means information about individuals  
10 collected by criminal justice agencies consisting of identifiable  
11 descriptions and notations of arrests, detentions, indictments,  
12 criminal complaints or other formal criminal charges, and any  
13 disposition arising therefrom, including acquittal, sentencing,  
14 correctional supervision, release or conviction, including, but not  
15 limited to, any conviction or sentence arising from a verdict or plea  
16 of guilty or nolo contendere, including a sentence of incarceration, a  
17 suspended sentence, a sentence of probation, or a sentence of  
18 conditional discharge.<sup>2</sup>

19 (cf: P.L.2019, c.436, s.2)

20  
21 <sup>2</sup>17. Section 8 of P.L.1945, c.169 (C.10:5-8) is amended to read  
22 as follows:

23 8. The Attorney General shall:

24 a. Exercise all powers of the division not vested in the  
25 commission.

26 b. Administer the work of the division.

27 c. Organize the division into sections, which shall include but  
28 not be limited to a section which shall receive, investigate, and act  
29 upon complaints alleging discrimination against persons because of  
30 race, creed, color, national origin, immigration or citizenship status,  
31 ancestry, age, marital status, affectional or sexual orientation,  
32 gender identity **[or]** , gender expression, familial status, disability,  
33 nationality **[or]** , sex, criminal record or source of lawful income  
34 used for rental or mortgage payments, or because of their liability  
35 for service in the Armed Forces of the United States; and another  
36 which shall, in order to eliminate prejudice and to further good will  
37 among the various racial and religious and nationality groups in this  
38 State, study, recommend, prepare and implement, in cooperation  
39 with such other departments of the State Government or any other  
40 agencies, groups or entities both public and private, such  
41 educational and human relations programs as are consonant with the  
42 objectives of this act; and prescribe the organization of said sections  
43 and the duties of **[his]** the Attorney General's subordinates and  
44 assistants.

45 d. Appoint a Director of the Division on Civil Rights, who  
46 shall act for the Attorney General, in the Attorney General's place  
47 and with the Attorney General's powers, which appointment shall be

1 subject to the approval of the commission and the Governor, a  
2 deputy director and such assistant directors, field representatives  
3 and assistants as may be necessary for the proper administration of  
4 the division and fix their compensation within the limits of  
5 available appropriations. The director, deputy director, assistant  
6 directors, field representatives and assistants shall not be subject to  
7 the Civil Service Act and shall be removable by the Attorney  
8 General at will.

9 e. Appoint such clerical force and employees as the Attorney  
10 General may deem necessary and fix their duties, all of whom shall  
11 be subject to the Civil Service Act.

12 f. Maintain liaison with local and State officials and agencies  
13 concerned with matters related to the work of the division.

14 g. Adopt, promulgate, amend, and rescind suitable rules and  
15 regulations to carry out the provisions of this act.

16 h. Conduct investigations, receive complaints and conduct  
17 hearings thereon other than those complaints received and hearings  
18 held pursuant to the provisions of this act.

19 i. In connection with any investigation or hearing held  
20 pursuant to the provisions of this act, subpoena witnesses, compel  
21 their attendance, administer oaths, take the testimony of any person,  
22 under oath, and, in connection therewith, require the production for  
23 examination of any books or papers relating to any subject matter  
24 under investigation or in question by the division and conduct such  
25 discovery procedures which may include the taking of  
26 interrogatories and oral depositions as shall be deemed necessary by  
27 the Attorney General in any investigation. The Attorney General  
28 may make rules as to the issuance of subpoenas by the director.  
29 The failure of any witness when duly subpoenaed to attend, give  
30 testimony, or produce evidence shall be punishable by the Superior  
31 Court of New Jersey in the same manner as such failure is  
32 punishable by such court in a case therein pending.

33 j. Issue such publications and such results of investigations  
34 and research tending to promote good will and to minimize or  
35 eliminate discrimination because of race, creed, color, national  
36 origin, immigration or citizenship status, ancestry, age, marital  
37 status, affectional or sexual orientation, gender identity **[or]** ,  
38 gender expression, familial status, disability, nationality **[or]** , sex,  
39 criminal record or source of lawful income used for rental or  
40 mortgage payments, as the commission shall direct, subject to  
41 available appropriations.

42 k. Render each year to the Governor and Legislature a full  
43 written report of all the activities of the division.

44 l. Appoint, subject to the approval of the commission, a panel  
45 of not more than five hearing examiners, each of whom shall be  
46 duly licensed to practice law in this State for a period of at least five  
47 years, and each to serve for a term of one year and until his  
48 successor is appointed, any one of whom the director may designate

1 in his place to conduct any hearing and recommend findings of fact  
2 and conclusions of law. The hearing examiners shall receive such  
3 compensation as may be determined by the Attorney General,  
4 subject to available appropriations.<sup>2</sup>

5 (cf: P.L.2006, c.100, s.6)

6  
7 <sup>2</sup>18. Section 1 of P.L.1954, c.198 (C.10:5-9.1) is amended to  
8 read as follows:

9 1. The Division on Civil Rights in the Department of Law and  
10 Public Safety shall enforce the laws of this State against  
11 discrimination in housing built with, or leased with the assistance  
12 of, public funds or public assistance, pursuant to any law, and in  
13 real property, as defined in the law hereby supplemented, because  
14 of race, religious principles, color, national origin, immigration or  
15 citizenship status, ancestry, marital status, affectional or sexual  
16 orientation, familial status, disability, liability for service in the  
17 Armed Forces of the United States, nationality, sex, gender identity  
18 **【or】**, gender expression, criminal record or source of lawful  
19 income used for rental or mortgage payments. The said laws shall  
20 be so enforced in the manner prescribed in **【the act to which this act**  
21 **is a supplement】** P.L.1945, c.169 (C.10:5-1 et seq.).<sup>2</sup>

22 (cf: P.L.2017, c.184, s.2)

23  
24 <sup>2</sup>19. Section 9 of P.L.1945, c.169 (C.10:5-10) is amended to  
25 read as follows:

26 9. The commission shall:

27 a. Consult with and advise the Attorney General with respect to  
28 the work of the division.

29 b. Survey and study the operations of the division.

30 c. Report to the Governor and the Legislature with respect to  
31 such matters relating to the work of the division and at such times  
32 as it may deem in the public interest.

33 The mayors or chief executive officers of the municipalities in  
34 the State may appoint local commissions on civil rights to aid in  
35 effectuating the purposes of this act. Such local commissions shall  
36 be composed of representative citizens serving without  
37 compensation. Such commissions shall attempt to foster through  
38 community effort or otherwise, good will, cooperation and  
39 conciliation among the groups and elements of the inhabitants of  
40 the community, and they may be empowered by the local governing  
41 bodies to make recommendations to them for the development of  
42 policies and procedures in general and for programs of formal and  
43 informal education that will aid in eliminating all types of  
44 discrimination based on race, creed, color, national origin,  
45 immigration or citizenship status, ancestry, age, marital status,  
46 affectional or sexual orientation, gender identity **【or】**, gender

1 expression, familial status, disability, nationality **【or】** , sex , or  
2 criminal record.<sup>2</sup>

3 (cf: P.L.2006, c.100, s.8)

4  
5 <sup>2</sup>20. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to  
6 read:

7 11. It shall be an unlawful employment practice, or, as the case  
8 may be, an unlawful discrimination:

9 a. For an employer, because of the race, creed, color, national  
10 origin, ancestry, age, marital status, civil union status, domestic  
11 partnership status, affectional or sexual orientation, genetic  
12 information, pregnancy or breastfeeding, sex, gender identity or  
13 expression, disability or atypical hereditary cellular or blood trait of  
14 any individual, or because of the liability for service in the Armed  
15 Forces of the United States or the nationality of any individual, or  
16 because of the refusal to submit to a genetic test or make available  
17 the results of a genetic test to an employer, to refuse to hire or  
18 employ or to bar or to discharge or require to retire, unless justified  
19 by lawful considerations other than age, from employment such  
20 individual or to discriminate against such individual in  
21 compensation or in terms, conditions or privileges of employment;  
22 provided, however, it shall not be an unlawful employment practice  
23 to refuse to accept for employment an applicant who has received a  
24 notice of induction or orders to report for active duty in the armed  
25 forces; provided further that nothing herein contained shall be  
26 construed to bar an employer from refusing to accept for  
27 employment any person on the basis of sex in those certain  
28 circumstances where sex is a bona fide occupational qualification,  
29 reasonably necessary to the normal operation of the particular  
30 business or enterprise; provided further that nothing herein  
31 contained shall be construed to bar an employer from refusing to  
32 accept for employment or to promote any person over 70 years of  
33 age; provided further that it shall not be an unlawful employment  
34 practice for a club exclusively social or fraternal to use club  
35 membership as a uniform qualification for employment, or for a  
36 religious association or organization to utilize religious affiliation  
37 as a uniform qualification in the employment of clergy, religious  
38 teachers or other employees engaged in the religious activities of  
39 the association or organization, or in following the tenets of its  
40 religion in establishing and utilizing criteria for employment of an  
41 employee; provided further, that it shall not be an unlawful  
42 employment practice to require the retirement of any employee  
43 who, for the two-year period immediately before retirement, is  
44 employed in a bona fide executive or a high policy-making position,  
45 if that employee is entitled to an immediate non-forfeitable annual  
46 retirement benefit from a pension, profit sharing, savings or  
47 deferred retirement plan, or any combination of those plans, of the  
48 employer of that employee which equals in the aggregate at least



1 \$27,000.00; and provided further that an employer may restrict  
2 employment to citizens of the United States where such restriction  
3 is required by federal law or is otherwise necessary to protect the  
4 national interest.

5 The provisions of subsections a. and b. of section 57 of  
6 P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of  
7 P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an  
8 unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

9 For the purposes of this subsection, a "bona fide executive" is a  
10 top level employee who exercises substantial executive authority  
11 over a significant number of employees and a large volume of  
12 business. A "high policy-making position" is a position in which a  
13 person plays a significant role in developing policy and in  
14 recommending the implementation thereof.

15 For the purposes of this subsection, an unlawful employment  
16 practice occurs, with respect to discrimination in compensation or  
17 in the financial terms or conditions of employment, each occasion  
18 that an individual is affected by application of a discriminatory  
19 compensation decision or other practice, including, but not limited  
20 to, each occasion that wages, benefits, or other compensation are  
21 paid, resulting in whole or in part from the decision or other  
22 practice.

23 In addition to any other relief authorized by the "Law Against  
24 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) for  
25 discrimination in compensation or in the financial terms or  
26 conditions of employment, liability shall accrue and an aggrieved  
27 person may obtain relief for back pay for the entire period of time,  
28 except not more than six years, in which the violation with regard to  
29 discrimination in compensation or in the financial terms or  
30 conditions of employment has been continuous, if the violation  
31 continues to occur within the statute of limitations.

32 Nothing in this subsection shall prohibit the application of the  
33 doctrine of "continuing violation" or the "discovery rule" to any  
34 appropriate claim as those doctrines currently exist in New Jersey  
35 common law. It shall be an unlawful employment practice to  
36 require employees or prospective employees to consent to a  
37 shortened statute of limitations or to waive any of the protections  
38 provided by the "Law Against Discrimination," P.L.1945, c.169  
39 (C.10:5-1 et seq.).

40 b. For a labor organization, because of the race, creed, color,  
41 national origin, ancestry, age, marital status, civil union status,  
42 domestic partnership status, affectional or sexual orientation,  
43 gender identity or expression, disability, pregnancy or  
44 breastfeeding, or sex of any individual, or because of the liability  
45 for service in the Armed Forces of the United States or nationality  
46 of any individual, to exclude or to expel from its membership such  
47 individual or to discriminate in any way against any of its members,  
48 against any applicant for, or individual included in, any apprentice

1 or other training program or against any employer or any individual  
2 employed by an employer; provided, however, that nothing herein  
3 contained shall be construed to bar a labor organization from  
4 excluding from its apprentice or other training programs any person  
5 on the basis of sex in those certain circumstances where sex is a  
6 bona fide occupational qualification reasonably necessary to the  
7 normal operation of the particular apprentice or other training  
8 program.

9 c. For any employer or employment agency to print or circulate  
10 or cause to be printed or circulated any statement, advertisement or  
11 publication, or to use any form of application for employment, or to  
12 make an inquiry in connection with prospective employment, which  
13 expresses, directly or indirectly, any limitation, specification or  
14 discrimination as to race, creed, color, national origin, ancestry,  
15 age, marital status, civil union status, domestic partnership status,  
16 affectional or sexual orientation, gender identity or expression,  
17 disability, nationality, pregnancy or breastfeeding, or sex or liability  
18 of any applicant for employment for service in the Armed Forces of  
19 the United States, or any intent to make any such limitation,  
20 specification or discrimination, unless based upon a bona fide  
21 occupational qualification.

22 d. For any person to take reprisals against any person because  
23 that person has opposed any practices or acts forbidden under this  
24 act or because that person has sought legal advice regarding rights  
25 under this act, shared relevant information with legal counsel,  
26 shared information with a governmental entity, or filed a complaint,  
27 testified or assisted in any proceeding under this act or to coerce,  
28 intimidate, threaten or interfere with any person in the exercise or  
29 enjoyment of, or on account of that person having aided or  
30 encouraged any other person in the exercise or enjoyment of, any  
31 right granted or protected by this act.

32 e. For any person, whether an employer or an employee or not,  
33 to aid, abet, incite, compel or coerce the doing of any of the acts  
34 forbidden under this act, or to attempt to do so.

35 f. (1) For any owner, lessee, proprietor, manager,  
36 superintendent, agent, or employee of any place of public  
37 accommodation directly or indirectly to refuse, withhold from or  
38 deny to any person any of the accommodations, advantages,  
39 facilities or privileges thereof, or to discriminate against any person  
40 in the furnishing thereof, or directly or indirectly to publish,  
41 circulate, issue, display, post or mail any written or printed  
42 communication, notice, or advertisement to the effect that any of  
43 the accommodations, advantages, facilities, or privileges of any  
44 such place will be refused, withheld from, or denied to any person  
45 on account of the race, creed, color, national origin, ancestry,  
46 marital status, civil union status, domestic partnership status,  
47 pregnancy or breastfeeding, sex, gender identity or expression,  
48 affectional or sexual orientation, disability, liability for service in

1 the Armed Forces of the United States or nationality of such person,  
2 or that the patronage or custom thereat of any person of any  
3 particular race, creed, color, national origin, ancestry, marital status,  
4 civil union status, domestic partnership status, pregnancy or  
5 breastfeeding status, sex, gender identity or expression, affectional  
6 or sexual orientation, disability, liability for service in the Armed  
7 Forces of the United States or nationality is unwelcome,  
8 objectionable or not acceptable, desired or solicited, and the  
9 production of any such written or printed communication, notice or  
10 advertisement, purporting to relate to any such place and to be made  
11 by any owner, lessee, proprietor, superintendent or manager thereof,  
12 shall be presumptive evidence in any action that the same was  
13 authorized by such person; provided, however, that nothing  
14 contained herein shall be construed to bar any place of public  
15 accommodation which is in its nature reasonably restricted  
16 exclusively to individuals of one sex, and which shall include but  
17 not be limited to any summer camp, day camp, or resort camp,  
18 bathhouse, dressing room, swimming pool, gymnasium, comfort  
19 station, dispensary, clinic or hospital, or school or educational  
20 institution which is restricted exclusively to individuals of one sex,  
21 provided individuals shall be admitted based on their gender  
22 identity or expression, from refusing, withholding from or denying  
23 to any individual of the opposite sex any of the accommodations,  
24 advantages, facilities or privileges thereof on the basis of sex;  
25 provided further, that the foregoing limitation shall not apply to any  
26 restaurant as defined in R.S.33:1-1 or place where alcoholic  
27 beverages are served.

28 (2) Notwithstanding the definition of "a place of public  
29 accommodation" as set forth in subsection l. of section 5 of  
30 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,  
31 manager, superintendent, agent, or employee of any private club or  
32 association to directly or indirectly refuse, withhold from or deny to  
33 any individual who has been accepted as a club member and has  
34 contracted for or is otherwise entitled to full club membership any  
35 of the accommodations, advantages, facilities or privileges thereof,  
36 or to discriminate against any member in the furnishing thereof on  
37 account of the race, creed, color, national origin, ancestry, marital  
38 status, civil union status, domestic partnership status, pregnancy or  
39 breastfeeding, sex, gender identity, or expression, affectional or  
40 sexual orientation, disability, liability for service in the Armed  
41 Forces of the United States or nationality of such person.

42 In addition to the penalties otherwise provided for a violation of  
43 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)  
44 of subsection f. of this section is the holder of an alcoholic beverage  
45 license issued under the provisions of R.S.33:1-12 for that private  
46 club or association, the matter shall be referred to the Director of  
47 the Division of Alcoholic Beverage Control who shall impose an

1 appropriate penalty in accordance with the procedures set forth in  
2 R.S.33:1-31.

3 g. For any person, including but not limited to, any owner,  
4 lessee, sublessee, assignee or managing agent of, or other person  
5 having the right of ownership or possession of or the right to sell,  
6 rent, lease, assign, or sublease any real property or part or portion  
7 thereof, or any agent or employee of any of these:

8 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
9 to deny to or withhold from any person or group of persons any real  
10 property or part or portion thereof because of race, creed, color,  
11 national origin, immigration or citizenship status except to the  
12 extent permitted under section 14 of P.L. , c. (C. ) (pending  
13 before the Legislature as this bill), ancestry, marital status, civil  
14 union status, domestic partnership status, pregnancy or  
15 breastfeeding, sex, gender identity **【or】** , gender expression,  
16 affectional or sexual orientation, familial status, disability, liability  
17 for service in the Armed Forces of the United States, nationality,  
18 criminal record except to the extent permitted under sections 1  
19 through 12 of P.L. , c. (C. ) (pending before the Legislature  
20 as this bill), or source of lawful income used for rental or mortgage  
21 payments;

22 (2) To discriminate against any person or group of persons  
23 because of race, creed, color, national origin, immigration or  
24 citizenship status except to the extent permitted under section 14 of  
25 P.L. , c. (C. ) (pending before the Legislature as this bill),  
26 ancestry, marital status, civil union status, domestic partnership  
27 status, pregnancy or breastfeeding, sex, gender identity **【or】** ,  
28 gender expression, affectional or sexual orientation, familial status,  
29 disability, liability for service in the Armed Forces of the United  
30 States, nationality, criminal record except to the extent permitted  
31 under sections 1 through 12 of P.L. , c. (C. ) (pending before  
32 the Legislature as this bill), or source of lawful income used for  
33 rental or mortgage payments in the terms, conditions or privileges  
34 of the sale, rental or lease of any real property or part or portion  
35 thereof or in the furnishing of facilities or services in connection  
36 therewith; notwithstanding subsection n. of P.L.1945, c.169  
37 (C.10:5-5), for purposes of claims brought under this subsection  
38 alleging that any owner or other person having the right of  
39 ownership or possession is liable for an unlawful discrimination  
40 because an individual was subjected to unlawful harassment based  
41 on any category protected under this paragraph, the definition of  
42 “real property” shall include the rental of a room or rooms to  
43 another person or persons by the owner or occupant of a one-family  
44 dwelling occupied by the owner or occupant as a residence at the  
45 time of such rental;

46 (3) To print, publish, circulate, issue, display, post or mail, or  
47 cause to be printed, published, circulated, issued, displayed, posted  
48 or mailed any statement, advertisement, publication or sign, or to

1 use any form of application for the purchase, rental, lease,  
 2 assignment or sublease of any real property or part or portion  
 3 thereof or, notwithstanding subsection n. of P.L.1945, c.169  
 4 (C.10:5-5), for the rental of a room or rooms to another person or  
 5 persons by the owner or occupant of a one-family dwelling  
 6 occupied by the owner or occupant as a residence at the time of  
 7 such rental, or to make any record or inquiry in connection with the  
 8 prospective purchase, rental, lease, assignment, or sublease of any  
 9 real property, or part or portion thereof or, notwithstanding  
 10 subsection n. of P.L.1945, c.169 (C.10:5-5), for the rental of a room  
 11 or rooms to another person or persons by the owner or occupant of a  
 12 one-family dwelling occupied by the owner or occupant as a  
 13 residence at the time of such rental, which expresses, directly or  
 14 indirectly, any limitation, specification or discrimination as to race,  
 15 creed, color, national origin, immigration or citizenship status  
 16 except to the extent permitted under section 14 of P.L. \_\_\_\_\_,  
 17 c. (C. \_\_\_\_\_)(pending before the Legislature as this bill), ancestry,  
 18 marital status, civil union status, domestic partnership status,  
 19 pregnancy or breastfeeding, sex, gender identity **【or】** gender  
 20 expression, affectional or sexual orientation, familial status,  
 21 disability, liability for service in the Armed Forces of the United  
 22 States, nationality, criminal record except to the extent permitted  
 23 under sections 1 through 12 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before  
 24 the Legislature as this bill), or source of lawful income used for  
 25 rental or mortgage payments, or any intent to make any such  
 26 limitation, specification or discrimination, and the production of  
 27 any such statement, advertisement, publicity, sign, form of  
 28 application, record, or inquiry purporting to be made by any such  
 29 person shall be presumptive evidence in any action that the same  
 30 was authorized by such person; provided, however, that nothing  
 31 contained in this subsection shall be construed to bar any person  
 32 from refusing to sell, rent, lease, assign or sublease or from  
 33 advertising or recording a qualification as to **【sex】** gender for any  
 34 room, apartment, flat in a dwelling or residential facility which is  
 35 planned exclusively for and occupied by individuals of one **【sex】**  
 36 gender to any individual of **【the exclusively opposite sex】** a  
 37 different gender on the basis of sex provided individuals shall be  
 38 qualified based on their gender identity or gender expression;  
 39 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
 40 to deny to or withhold from any person or group of persons any real  
 41 property or part or portion thereof because of the source of any  
 42 lawful income received by the person or the source of any lawful  
 43 rent payment to be paid for the real property, including, but not  
 44 limited to, by refusing to accept as payment any source of lawful  
 45 income or by applying, in assessing eligibility for the rental of  
 46 housing, any minimum income requirement or financial or

1 consumer credit history-related standard that is not based only on  
2 the portion of the rent to be paid by the tenant; [or]

3 (5) To refuse to rent or lease any real property to another person  
4 because that person's family includes children under 18 years of  
5 age, or to make an agreement, rental or lease of any real property  
6 which provides that the agreement, rental or lease shall be rendered  
7 null and void upon the birth of a child. This paragraph shall not  
8 apply to housing for older persons as defined in subsection mm. of  
9 section 5 of P.L.1945, c.169 (C.10:5-5);

10 (6) To refuse to rent or lease, or to refuse to offer to rent or  
11 lease, any real property or portion thereof to a prospective tenant  
12 because the prospective tenant was involved in a past or pending  
13 landlord-tenant action unless such action resulted in a final  
14 judgment against the prospective tenant within three years of the  
15 effective date of the prospective rental or lease agreement, and  
16 subject to the provisions of section 13 of P.L. \_\_\_\_\_,  
17 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill);

18 (7) To make any inquiry regarding or based on the immigration  
19 or citizenship status of a tenant, occupant, or prospective tenant or  
20 occupant of residential rental property, or to require that any such  
21 person disclose or make any statement, representation, or  
22 certification concerning such person's immigration or citizenship  
23 status, except to the extent permitted under section 14 of P.L. \_\_\_\_\_,  
24 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill); or

25 (8) To threaten to disclose or actually disclose information  
26 regarding or relating to the immigration or citizenship status of a  
27 tenant, occupant, prospective tenant or occupant, or other person  
28 known to be associated with a tenant, occupant, or prospective  
29 tenant or occupant, for the purpose of, or with the intent of,  
30 harassing or intimidating a tenant, occupant, or prospective tenant  
31 or occupant; influencing a tenant or occupant to vacate a dwelling;  
32 recovering possession of a dwelling from a tenant or occupant; or  
33 taking reprisals against a tenant, occupant, or prospective tenant or  
34 occupant under subsection d. of this section.

35 h. For any person, including but not limited to, any real estate  
36 broker, real estate salesperson, or employee or agent thereof:

37 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
38 sale, rental, lease, assignment, or sublease any real property or part  
39 or portion thereof to any person or group of persons because of  
40 race, creed, color, national origin, immigration or citizenship status  
41 except to the extent permitted under section 14 of P.L. \_\_\_\_\_,  
42 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), ancestry,  
43 marital status, civil union status, domestic partnership status,  
44 familial status, pregnancy or breastfeeding, sex, gender identity  
45 **[or]** gender expression, affectional or sexual orientation, liability  
46 for service in the Armed Forces of the United States,  
47 disability, nationality, criminal record except to the extent  
48 permitted under sections 1 through 12 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)

1 (pending before the Legislature as this bill), or source of lawful  
 2 income used for rental or mortgage payments, or to represent that  
 3 any real property or portion thereof is not available for inspection,  
 4 sale, rental, lease, assignment, or sublease when in fact it is so  
 5 available, or otherwise to deny or withhold any real property or any  
 6 part or portion of facilities thereof to or from any person or group of  
 7 persons because of race, creed, color, national origin, immigration  
 8 or citizenship status except to the extent permitted under section 14  
 9 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
 10 ancestry, marital status, civil union status, domestic partnership  
 11 status, familial status, pregnancy or breastfeeding, sex, gender  
 12 identity [or], gender expression, affectional or sexual orientation,  
 13 disability, liability for service in the Armed Forces of the United  
 14 States, [or] nationality, criminal record except to the extent  
 15 permitted under sections 1 through 12 of P.L. , c. (C. )  
 16 (pending before the Legislature as this bill), or source of lawful  
 17 income used for rental or mortgage payments;

18 (2) To discriminate against any person because of race, creed,  
 19 color, national origin, immigration or citizenship status except to  
 20 the extent permitted under section 14 of P.L. ,  
 21 c. (C. )(pending before the Legislature as this bill), ancestry,  
 22 marital status, civil union status, domestic partnership status,  
 23 familial status, pregnancy or breastfeeding, sex, gender identity  
 24 [or] , gender expression, affectional or sexual orientation,  
 25 disability, liability for service in the Armed Forces of the United  
 26 States, nationality, criminal record except to the extent permitted  
 27 under sections 1 through 12 of P.L. , c. (C. ) (pending before  
 28 the Legislature as this bill), or source of lawful income used for  
 29 rental or mortgage payments in the terms, conditions or privileges  
 30 of the sale, rental, lease, assignment or sublease of any real property  
 31 or part or portion thereof or in the furnishing of facilities or services  
 32 in connection therewith;

33 (3) To print, publish, circulate, issue, display, post, or mail, or  
 34 cause to be printed, published, circulated, issued, displayed, posted  
 35 or mailed any statement, advertisement, publication or sign, or to  
 36 use any form of application for the purchase, rental, lease,  
 37 assignment, or sublease of any real property or part or portion  
 38 thereof or, notwithstanding subsection n. of P.L.1945, c.169  
 39 (C.10:5-5), for the rental of a room or rooms to another person or  
 40 persons by the owner or occupant of a one-family dwelling  
 41 occupied by the owner or occupant as a residence at the time of  
 42 such rental, or to make any record or inquiry in connection with the  
 43 prospective purchase, rental, lease, assignment, or sublease of any  
 44 real property or part or portion thereof or, notwithstanding  
 45 subsection n. of P.L.1945, c.169 (C.10:5-5), for the rental of a  
 46 room or rooms to another person or persons by the owner or  
 47 occupant of a one-family dwelling occupied by the owner or  
 48 occupant as a residence at the time of such rental, which expresses,

1 directly or indirectly, any limitation, specification or discrimination  
2 as to race, creed, color, national origin, immigration or citizenship  
3 status except to the extent permitted under section 14 of P.L. ,  
4 c. (C. ) (pending before the Legislature as this bill), ancestry,  
5 marital status, civil union status, domestic partnership status,  
6 familial status, pregnancy or breastfeeding, sex, gender identity  
7 **【or】** , gender expression, affectional or sexual orientation,  
8 disability, liability for service in the Armed Forces of the United  
9 States, nationality, criminal record except to the extent permitted  
10 under sections 1 through 12 of P.L. , c. (C. ) (pending before  
11 the Legislature as this bill), or source of lawful income used for  
12 rental or mortgage payments or any intent to make any such  
13 limitation, specification or discrimination, and the production of  
14 any such statement, advertisement, publicity, sign, form of  
15 application, record, or inquiry purporting to be made by any such  
16 person shall be presumptive evidence in any action that the same  
17 was authorized by such person; provided, however, that nothing  
18 contained in this subsection h., shall be construed to bar any person  
19 from refusing to sell, rent, lease, assign or sublease or from  
20 advertising or recording a qualification as to **【sex】** gender for any  
21 room, apartment, flat in a dwelling or residential facility which is  
22 planned exclusively for and occupied exclusively by individuals of  
23 one **【sex】** gender to any individual of **【the opposite sex】** a different  
24 gender on the basis of sex or gender, provided individuals shall be  
25 qualified based on their gender identity or gender expression;

26 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
27 to deny to or withhold from any person or group of persons any real  
28 property or part or portion thereof because of the source of any  
29 lawful income received by the person or the source of any lawful  
30 rent payment to be paid for the real property, including, but not  
31 limited to, by refusing to accept as payment any source of lawful  
32 income, or by applying, in assessing eligibility for the rental of  
33 housing, any minimum income requirement or financial or  
34 consumer credit history-related standard that is not based only on  
35 the portion of the rent to be paid by the tenant; 【or】

36 (5) To refuse to rent or lease any real property to another person  
37 because that person's family includes children under 18 years of  
38 age, or to make an agreement, rental or lease of any real property  
39 which provides that the agreement, rental or lease shall be rendered  
40 null and void upon the birth of a child. This paragraph shall not  
41 apply to housing for older persons as defined in subsection mm. of  
42 section 5 of P.L.1945, c.169 (C.10:5-5);

43 (6) To refuse to rent or lease, or to refuse to offer to rent or  
44 lease, any real property or portion thereof to a prospective tenant  
45 because the prospective tenant was involved in a past or pending  
46 landlord-tenant action unless such action resulted in a final  
47 judgment against the prospective tenant within three years of the  
48 effective date of the prospective rental or lease agreement, and



- 1 subject to the provisions of section 13 of P.L. , c. (C. )  
2 (pending before the Legislature as this bill);
- 3 (7) To make any inquiry regarding or based on the immigration  
4 or citizenship status of a tenant, occupant, or prospective tenant or  
5 occupant of residential rental property, or to require that any such  
6 person disclose or make any statement, representation, or  
7 certification concerning such person's immigration or citizenship  
8 status, except to the extent permitted under section 14 of P.L. ,  
9 c. (C. ) (pending before the Legislature as this bill); or
- 10 (8) To threaten to disclose or actually disclose information  
11 regarding or relating to the immigration or citizenship status of a  
12 tenant, occupant, prospective tenant or occupant, or other person  
13 known to be associated with a tenant, occupant, or prospective  
14 tenant or occupant, for the purpose of, or with the intent of,  
15 harassing or intimidating a tenant, occupant, or prospective tenant  
16 or occupant; influencing a tenant or occupant to vacate a dwelling;  
17 recovering possession of a dwelling from a tenant or occupant; or  
18 taking reprisals against a tenant, occupant, or prospective tenant or  
19 occupant under subsection d. of this section.
- 20 i. For any person, bank, banking organization, mortgage  
21 company, insurance company or other financial institution, lender  
22 or credit institution involved in the making or purchasing of any  
23 loan or extension of credit, for whatever purpose, whether secured  
24 by residential real estate or not, including but not limited to  
25 financial assistance for the purchase, acquisition, construction,  
26 rehabilitation, repair or maintenance of any real property or part or  
27 portion thereof or any agent or employee thereof:
- 28 (1) To discriminate against any person or group of persons  
29 because of race, creed, color, national origin, ancestry, marital  
30 status, civil union status, domestic partnership status, pregnancy or  
31 breastfeeding, sex, gender identity or expression, affectional or  
32 sexual orientation, disability, liability for service in the Armed  
33 Forces of the United States, familial status or nationality, in the  
34 granting, withholding, extending, modifying, renewing, or  
35 purchasing, or in the fixing of the rates, terms, conditions or  
36 provisions of any such loan, extension of credit or financial  
37 assistance or purchase thereof or in the extension of services in  
38 connection therewith;
- 39 (2) To use any form of application for such loan, extension of  
40 credit or financial assistance or to make record or inquiry in  
41 connection with applications for any such loan, extension of credit  
42 or financial assistance which expresses, directly or indirectly, any  
43 limitation, specification or discrimination as to race, creed, color,  
44 national origin, ancestry, marital status, civil union status, domestic  
45 partnership status, pregnancy or breastfeeding, sex, gender identity  
46 or expression, affectional or sexual orientation, disability, liability  
47 for service in the Armed Forces of the United States, familial status  
48 or nationality or any intent to make any such limitation,

1 specification or discrimination; unless otherwise required by law or  
2 regulation to retain or use such information;

3 (3) (Deleted by amendment, P.L.2003, c.180).

4 (4) To discriminate against any person or group of persons  
5 because of the source of any lawful income received by the person  
6 or the source of any lawful rent payment to be paid for the real  
7 property; or

8 (5) To discriminate against any person or group of persons  
9 because that person's family includes children under 18 years of  
10 age, or to make an agreement or mortgage which provides that the  
11 agreement or mortgage shall be rendered null and void upon the  
12 birth of a child. This paragraph shall not apply to housing for older  
13 persons as defined in subsection mm. of section 5 of P.L.1945,  
14 c.169 (C.10:5-5).

15 j. For any person whose activities are included within the  
16 scope of this act to refuse to post or display such notices concerning  
17 the rights or responsibilities of persons affected by this act as the  
18 Attorney General may by regulation require.

19 k. For any real estate broker, real estate salesperson or  
20 employee or agent thereof or any other individual, corporation,  
21 partnership, or organization, for the purpose of inducing a  
22 transaction for the sale or rental of real property from which  
23 transaction such person or any of its members may benefit  
24 financially, to represent that a change has occurred or will or may  
25 occur in the composition with respect to race, creed, color, national  
26 origin, immigration or citizenship status except to the extent  
27 permitted under section 14 of P.L. , c. (C. ) (pending before the  
28 Legislature as this bill), ancestry, marital status, civil union status,  
29 domestic partnership status, familial status, pregnancy or  
30 breastfeeding, sex, gender identity **[or]** , gender expression,  
31 affectional or sexual orientation, disability, liability for service in  
32 the Armed Forces of the United States, nationality, criminal record  
33 except to the extent permitted under sections 1 through 12 of  
34 P.L. , c. (C. ) (pending before the Legislature as this bill), or  
35 source of lawful income used for rental or mortgage payments of  
36 the owners or occupants in the block, neighborhood or area in  
37 which the real property is located, and to represent, directly or  
38 indirectly, that this change will or may result in undesirable  
39 consequences in the block, neighborhood or area in which the real  
40 property is located, including, but not limited to the lowering of  
41 property values, an increase in criminal or anti-social behavior, or a  
42 decline in the quality of schools or other facilities.

43 l. For any person to refuse to buy from, sell to, lease from or  
44 to, license, contract with, or trade with, provide goods, services or  
45 information to, or otherwise do business with any other person on  
46 the basis of the race, creed, color, national origin, ancestry, age,  
47 pregnancy or breastfeeding, sex, gender identity or expression,  
48 affectional or sexual orientation, marital status, civil union status,

1 domestic partnership status, liability for service in the Armed  
2 Forces of the United States, disability, nationality, or source of  
3 lawful income used for rental or mortgage payments of such other  
4 person or of such other person's family members, partners,  
5 members, stockholders, directors, officers, managers,  
6 superintendents, agents, employees, business associates, suppliers,  
7 or customers. This subsection shall not prohibit refusals or other  
8 actions (1) pertaining to employee-employer collective bargaining,  
9 labor disputes, or unfair labor practices, or (2) made or taken in  
10 connection with a protest of unlawful discrimination or unlawful  
11 employment practices.

12 m. For any person to:

13 (1) Grant or accept any letter of credit or other document which  
14 evidences the transfer of funds or credit, or enter into any contract  
15 for the exchange of goods or services, where the letter of credit,  
16 contract, or other document contains any provisions requiring any  
17 person to discriminate against or to certify that he, she or it has not  
18 dealt with any other person on the basis of the race, creed, color,  
19 national origin, ancestry, age, pregnancy or breastfeeding, sex,  
20 gender identity or expression, affectional or sexual orientation,  
21 marital status, civil union status, domestic partnership status,  
22 disability, liability for service in the Armed Forces of the United  
23 States, or nationality of such other person or of such other person's  
24 family members, partners, members, stockholders, directors,  
25 officers, managers, superintendents, agents, employees, business  
26 associates, suppliers, or customers.

27 (2) Refuse to grant or accept any letter of credit or other  
28 document which evidences the transfer of funds or credit, or refuse  
29 to enter into any contract for the exchange of goods or services, on  
30 the ground that it does not contain such a discriminatory provision  
31 or certification.

32 The provisions of this subsection shall not apply to any letter of  
33 credit, contract, or other document which contains any provision  
34 pertaining to employee-employer collective bargaining, a labor  
35 dispute or an unfair labor practice, or made in connection with the  
36 protest of unlawful discrimination or an unlawful employment  
37 practice, if the other provisions of such letter of credit, contract, or  
38 other document do not otherwise violate the provisions of this  
39 subsection.

40 n. For any person to aid, abet, incite, compel, coerce, or induce  
41 the doing of any act forbidden by subsections l. and m. of section  
42 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to  
43 do so. Such prohibited conduct shall include, but not be limited to:

44 (1) Buying from, selling to, leasing from or to, licensing,  
45 contracting with, trading with, providing goods, services, or  
46 information to, or otherwise doing business with any person  
47 because that person does, or agrees or attempts to do, any such act  
48 or any act prohibited by this subsection; or

1       (2) Boycotting, commercially blacklisting or refusing to buy  
2 from, sell to, lease from or to, license, contract with, provide goods,  
3 services or information to, or otherwise do business with any person  
4 because that person has not done or refuses to do any such act or  
5 any act prohibited by this subsection; provided that this subsection  
6 shall not prohibit refusals or other actions either pertaining to  
7 employee-employer collective bargaining, labor disputes, or unfair  
8 labor practices, or made or taken in connection with a protest of  
9 unlawful discrimination or unlawful employment practices.

10       o. For any multiple listing service, real estate brokers'  
11 organization or other service, organization or facility related to the  
12 business of selling or renting dwellings to deny any person access  
13 to or membership or participation in such organization, or to  
14 discriminate against such person in the terms or conditions of such  
15 access, membership, or participation, on account of race, creed,  
16 color, national origin, ancestry, age, marital status, civil union  
17 status, domestic partnership status, familial status, pregnancy or  
18 breastfeeding, sex, gender identity or expression, affectional or  
19 sexual orientation, disability, liability for service in the Armed  
20 Forces of the United States or nationality.

21       p. Nothing in the provisions of this section shall affect the  
22 ability of an employer to require employees to adhere to reasonable  
23 workplace appearance, grooming and dress standards not precluded  
24 by other provisions of State or federal law, except that an employer  
25 shall allow an employee to appear, groom and dress consistent with  
26 the employee's gender identity or expression.

27       q. (1) For any employer to impose upon a person as a condition  
28 of obtaining or retaining employment, including opportunities for  
29 promotion, advancement or transfers, any terms or conditions that  
30 would require a person to violate or forego a sincerely held  
31 religious practice or religious observance, including but not limited  
32 to the observance of any particular day or days or any portion  
33 thereof as a Sabbath or other holy day in accordance with the  
34 requirements of the religion or religious belief, unless, after  
35 engaging in a bona fide effort, the employer demonstrates that it is  
36 unable to reasonably accommodate the employee's religious  
37 observance or practice without undue hardship on the conduct of the  
38 employer's business. Notwithstanding any other provision of law to  
39 the contrary, an employee shall not be entitled to premium wages or  
40 premium benefits for work performed during hours to which those  
41 premium wages or premium benefits would ordinarily be  
42 applicable, if the employee is working during those hours only as an  
43 accommodation to his religious requirements. Nothing in this  
44 subsection q. shall be construed as reducing:

45       (a) The number of the hours worked by the employee which are  
46 counted towards the accruing of seniority, pension or other benefits;  
47 or

1 (b) Any premium wages or benefits provided to an employee  
2 pursuant to a collective bargaining agreement.

3 (2) For an employer to refuse to permit an employee to utilize  
4 leave, as provided for in this subsection q., which is solely used to  
5 accommodate the employee's sincerely held religious observance or  
6 practice. Except where it would cause an employer to incur an  
7 undue hardship, no person shall be required to remain at his place  
8 of employment during any day or days or portion thereof that, as a  
9 requirement of his religion, he observes as his Sabbath or other holy  
10 day, including a reasonable time prior and subsequent thereto for  
11 travel between his place of employment and his home; provided that  
12 any such absence from work shall, wherever practicable in the  
13 reasonable judgment of the employer, be made up by an equivalent  
14 amount of time and work at some other mutually convenient time,  
15 or shall be charged against any leave with pay ordinarily granted,  
16 other than sick leave, and any such absence not so made up or  
17 charged, may be treated by the employer of that person as leave  
18 taken without pay.

19 (3) (a) For purposes of this subsection q., "undue hardship"  
20 means an accommodation requiring unreasonable expense or  
21 difficulty, unreasonable interference with the safe or efficient  
22 operation of the workplace or a violation of a bona fide seniority  
23 system or a violation of any provision of a bona fide collective  
24 bargaining agreement.

25 (b) In determining whether the accommodation constitutes an  
26 undue hardship, the factors considered shall include:

27 (i) The identifiable cost of the accommodation, including the  
28 costs of loss of productivity and of retaining or hiring employees or  
29 transferring employees from one facility to another, in relation to  
30 the size and operating cost of the employer.

31 (ii) The number of individuals who will need the particular  
32 accommodation for a sincerely held religious observance or  
33 practice.

34 (iii) For an employer with multiple facilities, the degree to  
35 which the geographic separateness or administrative or fiscal  
36 relationship of the facilities will make the accommodation more  
37 difficult or expensive.

38 (c) An accommodation shall be considered to constitute an  
39 undue hardship if it will result in the inability of an employee to  
40 perform the essential functions of the position in which he or she is  
41 employed.

42 (d) (i) The provisions of this subsection q. shall be applicable  
43 only to reasonable accommodations of religious observances and  
44 shall not supersede any definition of undue hardship or standards  
45 for reasonable accommodation of the disabilities of employees.

46 (ii) This subsection q. shall not apply where the uniform  
47 application of terms and conditions of attendance to employees is  
48 essential to prevent undue hardship to the employer. The burden of

1 proof regarding the applicability of this subparagraph (d) shall be  
2 upon the employer.

3 r. For any employer to take reprisals against any employee for  
4 requesting from, discussing with, or disclosing to, any other  
5 employee or former employee of the employer, a lawyer from  
6 whom the employee seeks legal advice, or any government agency  
7 information regarding the job title, occupational category, and rate  
8 of compensation, including benefits, of the employee or any other  
9 employee or former employee of the employer, or the gender, race,  
10 ethnicity, military status, or national origin of the employee or any  
11 other employee or former employee of the employer, regardless of  
12 whether the request was responded to, or to require, as a condition  
13 of employment, any employee or prospective employee to sign a  
14 waiver, or to otherwise require an employee or prospective  
15 employee to agree, not to make those requests or disclosures.  
16 Nothing in this subsection shall be construed to require an  
17 employee to disclose such information about the employee herself  
18 to any other employee or former employee of the employer or to  
19 any authorized representative of the other employee or former  
20 employee.

21 s. For an employer to treat, for employment-related purposes, a  
22 woman employee that the employer knows, or should know, is  
23 affected by pregnancy or breastfeeding in a manner less favorable  
24 than the treatment of other persons not affected by pregnancy or  
25 breastfeeding but similar in their ability or inability to work. In  
26 addition, an employer of an employee who is a woman affected by  
27 pregnancy shall make available to the employee reasonable  
28 accommodation in the workplace, such as bathroom breaks, breaks  
29 for increased water intake, periodic rest, assistance with manual  
30 labor, job restructuring or modified work schedules, and temporary  
31 transfers to less strenuous or hazardous work, for needs related to  
32 the pregnancy when the employee, based on the advice of her  
33 physician, requests the accommodation, and, in the case of a  
34 employee breast feeding her infant child, the accommodation shall  
35 include reasonable break time each day to the employee and a  
36 suitable room or other location with privacy, other than a toilet stall,  
37 in close proximity to the work area for the employee to express  
38 breast milk for the child, unless the employer can demonstrate that  
39 providing the accommodation would be an undue hardship on the  
40 business operations of the employer. The employer shall not in any  
41 way penalize the employee in terms, conditions or privileges of  
42 employment for requesting or using the accommodation. Workplace  
43 accommodation provided pursuant to this subsection and paid or  
44 unpaid leave provided to an employee affected by pregnancy or  
45 breastfeeding shall not be provided in a manner less favorable than  
46 accommodations or leave provided to other employees not affected  
47 by pregnancy or breastfeeding but similar in their ability or inability  
48 to work. This subsection shall not be construed as otherwise

1 increasing or decreasing any employee's rights under law to paid or  
2 unpaid leave in connection with pregnancy or breastfeeding.

3 For the purposes of this section "pregnancy or breastfeeding"  
4 means pregnancy, childbirth, and breast feeding or expressing milk  
5 for breastfeeding, or medical conditions related to pregnancy,  
6 childbirth, or breastfeeding, including recovery from childbirth.

7 For the purposes of this subsection, in determining whether an  
8 accommodation would impose undue hardship on the operation of  
9 an employer's business, the factors to be considered include: the  
10 overall size of the employer's business with respect to the number  
11 of employees, number and type of facilities, and size of budget; the  
12 type of the employer's operations, including the composition and  
13 structure of the employer's workforce; the nature and cost of the  
14 accommodation needed, taking into consideration the availability of  
15 tax credits, tax deductions, and outside funding; and the extent to  
16 which the accommodation would involve waiver of an essential  
17 requirement of a job as opposed to a tangential or non-business  
18 necessity requirement.

19 t. For an employer to pay any of its employees who is a  
20 member of a protected class at a rate of compensation, including  
21 benefits, which is less than the rate paid by the employer to  
22 employees who are not members of the protected class for  
23 substantially similar work, when viewed as a composite of skill,  
24 effort and responsibility. An employer who is paying a rate of  
25 compensation in violation of this subsection shall not reduce the  
26 rate of compensation of any employee in order to comply with this  
27 subsection. An employer may pay a different rate of compensation  
28 only if the employer demonstrates that the differential is made  
29 pursuant to a seniority system, a merit system, or the employer  
30 demonstrates:

31 (1) That the differential is based on one or more legitimate, bona  
32 fide factors other than the characteristics of members of the  
33 protected class, such as training, education or experience, or the  
34 quantity or quality of production;

35 (2) That the factor or factors are not based on, and do not  
36 perpetuate, a differential in compensation based on sex or any other  
37 characteristic of members of a protected class;

38 (3) That each of the factors is applied reasonably;

39 (4) That one or more of the factors account for the entire wage  
40 differential; and

41 (5) That the factors are job-related with respect to the position  
42 in question and based on a legitimate business necessity. A factor  
43 based on business necessity shall not apply if it is demonstrated that  
44 there are alternative business practices that would serve the same  
45 business purpose without producing the wage differential.

46 Comparisons of wage rates shall be based on wage rates in all of  
47 an employer's operations or facilities. For the purposes of this  
48 subsection, "member of a protected class" means an employee who

1 has one or more characteristics, including race, creed, color,  
2 national origin, nationality, ancestry, age, marital status, civil union  
3 status, domestic partnership status, affectional or sexual orientation,  
4 genetic information, pregnancy, sex, gender identity or expression,  
5 disability or atypical hereditary cellular or blood trait of any  
6 individual, or liability for service in the armed forces, for which  
7 subsection a. of this section prohibits an employer from refusing to  
8 hire or employ or barring or discharging or requiring to retire from  
9 employment or discriminating against the individual in  
10 compensation or in terms, conditions or privileges of employment.<sup>2</sup>  
11 (cf: P.L.2019, c.436, s.3)

12  
13 <sup>2</sup>21. Section 12 of P.L.1992, c.146 (C.10:5-12.5) is amended to  
14 read as follows:

15 12. a. It shall be an unlawful discrimination for a municipality,  
16 county, or other local civil or political subdivision of the State of  
17 New Jersey, or an officer, employee, or agent thereof, to exercise  
18 the power to regulate land use or housing in a manner that  
19 discriminates on the basis of race, creed, color, national origin,  
20 ancestry, marital status, familial status, sex, affectional or sexual  
21 orientation, gender identity **【or】**, gender expression, liability for  
22 service in the Armed Forces of the United States, nationality, or  
23 disability.

24 b. The provisions of subsection a. of this section may only be  
25 enforced by initiating an action in Superior Court pursuant to  
26 paragraph (2) of subsection a. of section 12 of P.L.1945, c.169  
27 (C.10:5-13). The restrictions of this subsection shall not apply to  
28 claims alleging discrimination in housing owned or managed by a  
29 municipality, county or other local civil or political subdivision of  
30 the State of New Jersey where such discrimination is otherwise  
31 prohibited by section 11 of P.L.1945, c.169 (C.10:5-12).<sup>2</sup>  
32 (cf: P.L.2019, c.436, s.4)

33  
34 <sup>2</sup>22. Section 2 of P.L.1983, c.412 (C.10:5-14.1a) is amended to  
35 read as follows:

36 2. Any person who violates any of the provisions of the "Law  
37 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), shall,  
38 in addition to any other relief or affirmative action provided by law,  
39 be liable for the following penalties:

40 a. In an amount not exceeding **【\$10,000】** the greater of  
41 \$25,000 or the maximum civil penalty amount provided for  
42 violations of the federal "Fair Housing Act," 42 U.S.C. ss. 3601 et  
43 seq., if the respondent has not been adjudged to have committed any  
44 prior violation within the five-year period ending on the date of the  
45 filing of this charge;

46 b. In an amount not exceeding **【\$25,000】** the greater of \$50,000  
47 or the maximum civil penalty amount provided for violations of the



1 federal "Fair Housing Act," 42 U.S.C. ss. 3601 et seq., if the  
 2 respondent has been adjudged to have committed one other  
 3 violation within the five-year period ending on the date of the filing  
 4 of this charge; and

5 c. In an amount not exceeding **[\$50,000]** the greater of  
 6 \$100,000 or the maximum civil penalty amount provided for  
 7 violations of the federal "Fair Housing Act," 42 U.S.C. ss. 3601 et  
 8 seq., if the respondent has been adjudged to have committed two or  
 9 more violations within the seven-year period ending on the date of  
 10 the filing of this charge.

11 d. The penalties shall be determined by the director in such  
 12 amounts as **[he]** the director deems proper under the circumstances  
 13 and included in **[his]** the director's order following **[his]** the  
 14 director's finding of an unlawful discrimination or an unlawful  
 15 employment practice pursuant to section 16 of P.L.1945, c.169  
 16 (C.10:5-17). Any such amounts collected by the director shall be  
 17 paid forthwith into the State Treasury for the general purposes of  
 18 the State.<sup>2</sup>

19 (cf: P.L.2019, c.436, s.7)

20

21 <sup>1</sup>**[7.]** <sup>2</sup>**[10.1]** 23. (New section)<sup>2</sup> In accordance with the  
 22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
 23 seq.), the Attorney General <sup>1</sup>**[may]** shall<sup>1</sup> adopt the rules and  
 24 regulations necessary to effectuate the purposes of <sup>1</sup>**[this act]**  
 25 P.L. c. , (C. ) (pending before the Legislature as this bill) on  
 26 or before the first day of the fifth month next following enactment<sup>1</sup>.

27

28 <sup>1</sup>**[8.]** <sup>2</sup>**[11.1]** 24.<sup>2</sup> This act shall take effect on the first day of  
 29 the seventh month next following the date of enactment, but the  
 30 Attorney General may take any anticipatory administrative action in  
 31 advance as shall be necessary for the implementation of this act.