

P.L. 2006, CHAPTER 100, *approved December 19, 2006*  
Senate, No. 362 (*Second Reprint*)

1 AN ACT concerning the "Law against Discrimination" and  
2 amending various parts of the statutory law <sup>1</sup>["and supplementing  
3 P.L.1945, c.169"]<sup>1</sup>.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. R.S.10:2-1 is amended to read as follows:

9 10:2-1. Antidiscrimination provisions. Every contract for or on  
10 behalf of the State or any county or municipality or other political  
11 subdivision of the State, or any agency of or authority created by  
12 any of the foregoing, for the construction, alteration or repair of any  
13 public building or public work or for the acquisition of materials,  
14 equipment, supplies or services shall contain provisions by which  
15 the contractor agrees that:

16 a. In the hiring of persons for the performance of work under  
17 this contract or any subcontract hereunder, or for the procurement,  
18 manufacture, assembling or furnishing of any such materials,  
19 equipment, supplies or services to be acquired under this contract,  
20 no contractor, nor any person acting on behalf of such contractor or  
21 subcontractor, shall, by reason of race, creed, color, national origin,  
22 ancestry, marital status, gender identity or expression, affectional or  
23 sexual orientation or sex, discriminate against any person who is  
24 qualified and available to perform the work to which the  
25 employment relates;

26 b. No contractor, subcontractor, nor any person on his behalf  
27 shall, in any manner, discriminate against or intimidate any  
28 employee engaged in the performance of work under this contract  
29 or any subcontract hereunder, or engaged in the procurement,  
30 manufacture, assembling or furnishing of any such materials,  
31 equipment, supplies or services to be acquired under such contract,  
32 on account of race, creed, color, national origin, ancestry, marital  
33 status, gender identity or expression, affectional or sexual  
34 orientation or sex;

35 c. There may be deducted from the amount payable to the  
36 contractor by the contracting public agency, under this contract, a  
37 penalty of \$50.00 for each person for each calendar day during  
38 which such person is discriminated against or intimidated in  
39 violation of the provisions of the contract; and

40 d. This contract may be canceled or terminated by the  
41 contracting public agency, and all money due or to become due  
42 hereunder may be forfeited, for any violation of this section of the  
43 contract occurring after notice to the contractor from the contracting

**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 SJU committee amendments adopted November 13, 2006.

<sup>2</sup>Assembly floor amendments adopted December 14, 2006.

1 public agency of any prior violation of this section of the contract.

2 No provision in this section shall be construed to prevent a board  
3 of education from designating that a contract, subcontract or other  
4 means of procurement of goods, services, equipment or construction  
5 shall be awarded to a small business enterprise, minority business  
6 enterprise or a women's business enterprise pursuant to P.L.1985,  
7 c.490 (C.18A:18A-51 et seq.).  
8 (cf: P.L.1991, c.519, s.10)  
9

10 2. Section 3 of P.L.1945, c.169 (C.10:5-3) is amended to read as  
11 follows:

12 3. The Legislature finds and declares that practices of  
13 discrimination against any of its inhabitants, because of race, creed,  
14 color, national origin, ancestry, age, sex, gender identity or  
15 expression, affectional or sexual orientation, marital status, familial  
16 status, liability for service in the Armed Forces of the United States,  
17 disability or nationality, are matters of concern to the government  
18 of the State, and that such discrimination threatens not only the  
19 rights and proper privileges of the inhabitants of the State but  
20 menaces the institutions and foundation of a free democratic State;  
21 provided, however, that nothing in this expression of policy  
22 prevents the making of legitimate distinctions between citizens and  
23 aliens when required by federal law or otherwise necessary to  
24 promote the national interest.

25 The Legislature further declares its opposition to such practices  
26 of discrimination when directed against any person by reason of the  
27 race, creed, color, national origin, ancestry, age, sex, gender  
28 identity or expression, affectional or sexual orientation, marital  
29 status, liability for service in the Armed Forces of the United States,  
30 disability or nationality of that person or that person's spouse,  
31 partners, members, stockholders, directors, officers, managers,  
32 superintendents, agents, employees, business associates, suppliers,  
33 or customers, in order that the economic prosperity and general  
34 welfare of the inhabitants of the State may be protected and  
35 ensured.

36 The Legislature further finds that because of discrimination,  
37 people suffer personal hardships, and the State suffers a grievous  
38 harm. The personal hardships include: economic loss; time loss;  
39 physical and emotional stress; and in some cases severe emotional  
40 trauma, illness, homelessness or other irreparable harm resulting  
41 from the strain of employment controversies; relocation, search and  
42 moving difficulties; anxiety caused by lack of information,  
43 uncertainty, and resultant planning difficulty; career, education,  
44 family and social disruption; and adjustment problems, which  
45 particularly impact on those protected by this act. Such harms  
46 have, under the common law, given rise to legal remedies, including  
47 compensatory and punitive damages. The Legislature intends that  
48 such damages be available to all persons protected by this act and

1 that this act shall be liberally construed in combination with other  
2 protections available under the laws of this State.

3 (cf: P.L.2003, c.180, s.3)

4

5 3. Section 4 of P.L.1945, c.169 (C.10:5-4) is amended to read as  
6 follows:

7 4. All persons shall have the opportunity to obtain employment,  
8 and to obtain all the accommodations, advantages, facilities, and  
9 privileges of any place of public accommodation, publicly assisted  
10 housing accommodation, and other real property without  
11 discrimination because of race, creed, color, national origin,  
12 ancestry, age, marital status, affectional or sexual orientation,  
13 familial status, disability, nationality, sex, gender identity or  
14 expression or source of lawful income used for rental or mortgage  
15 payments, subject only to conditions and limitations applicable  
16 alike to all persons. This opportunity is recognized as and declared  
17 to be a civil right.

18 (cf: P.L.2003, c.180, s.4)

19

20 4. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as  
21 follows:

22 5. As used in this act, unless a different meaning clearly appears  
23 from the context:

24 a. "Person" includes one or more individuals, partnerships,  
25 associations, organizations, labor organizations, corporations, legal  
26 representatives, trustees, trustees in bankruptcy, receivers, and  
27 fiduciaries.

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

30 c. "Labor organization" includes any organization which exists  
31 and is constituted for the purpose, in whole or in part, of collective  
32 bargaining, or of dealing with employers concerning grievances,  
33 terms or conditions of employment, or of other mutual aid or  
34 protection in connection with employment.

35 d. "Unlawful employment practice" and "unlawful  
36 discrimination" include only those unlawful practices and acts  
37 specified in section 11 of this act.

38 e. "Employer" includes all persons as defined in subsection a. of  
39 this section unless otherwise specifically exempt under another  
40 section of this act, and includes the State, any political or civil  
41 subdivision thereof, and all public officers, agencies, boards or  
42 bodies.

43 f. "Employee" does not include any individual employed in the  
44 domestic service of any person.

45 g. "Liability for service in the Armed Forces of the United  
46 States" means subject to being ordered as an individual or member  
47 of an organized unit into active service in the Armed Forces of the  
48 United States by reason of membership in the National Guard, naval

- 1 militia or a reserve component of the Armed Forces of the United  
2 States, or subject to being inducted into such armed forces through  
3 a system of national selective service.
- 4 h. "Division" means the "Division on Civil Rights" created by  
5 this act.
- 6 i. "Attorney General" means the Attorney General of the State of  
7 New Jersey or his representative or designee.
- 8 j. "Commission" means the Commission on Civil Rights created  
9 by this act.
- 10 k. "Director" means the Director of the Division on Civil Rights.
- 11 l. "A place of public accommodation" shall include, but not be  
12 limited to: any tavern, road house, hotel, motel, trailer camp,  
13 summer camp, day camp, or resort camp, whether for entertainment  
14 of transient guests or accommodation of those seeking health,  
15 recreation or rest; any producer, manufacturer, wholesaler,  
16 distributor, retail shop, store, establishment, or concession dealing  
17 with goods or services of any kind; any restaurant, eating house, or  
18 place where food is sold for consumption on the premises; any  
19 place maintained for the sale of ice cream, ice and fruit preparations  
20 or their derivatives, soda water or confections, or where any  
21 beverages of any kind are retailed for consumption on the premises;  
22 any garage, any public conveyance operated on land or water, or in  
23 the air, any stations and terminals thereof; any bathhouse,  
24 boardwalk, or seashore accommodation; any auditorium, meeting  
25 place, or hall; any theater, motion-picture house, music hall, roof  
26 garden, skating rink, swimming pool, amusement and recreation  
27 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
28 pool parlor, or other place of amusement; any comfort station; any  
29 dispensary, clinic or hospital; any public library; any kindergarten,  
30 primary and secondary school, trade or business school, high  
31 school, academy, college and university, or any educational  
32 institution under the supervision of the State Board of Education, or  
33 the Commissioner of Education of the State of New Jersey.  
34 Nothing herein contained shall be construed to include or to apply  
35 to any institution, bona fide club, or place of accommodation, which  
36 is in its nature distinctly private; nor shall anything herein contained  
37 apply to any educational facility operated or maintained by a bona  
38 fide religious or sectarian institution, and the right of a natural  
39 parent or one in loco parentis to direct the education and upbringing  
40 of a child under his control is hereby affirmed; nor shall anything  
41 herein contained be construed to bar any private secondary or post  
42 secondary school from using in good faith criteria other than race,  
43 creed, color, national origin, ancestry, gender identity or expression  
44 or affectional or sexual orientation in the admission of students.
- 45 m. "A publicly assisted housing accommodation" shall include  
46 all housing built with public funds or public assistance pursuant to  
47 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,  
48 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,

1 c.184, and all housing financed in whole or in part by a loan,  
2 whether or not secured by a mortgage, the repayment of which is  
3 guaranteed or insured by the federal government or any agency  
4 thereof.

5 n. The term "real property" includes real estate, lands, tenements  
6 and hereditaments, corporeal and incorporeal, and leaseholds,  
7 provided, however, that, except as to publicly assisted housing  
8 accommodations, the provisions of this act shall not apply to the  
9 rental: (1) of a single apartment or flat in a two-family dwelling,  
10 the other occupancy unit of which is occupied by the owner as a  
11 residence; or (2) of a room or rooms to another person or persons by  
12 the owner or occupant of a one-family dwelling occupied by the  
13 owner or occupant as a residence at the time of such rental.  
14 Nothing herein contained shall be construed to bar any religious or  
15 denominational institution or organization, or any organization  
16 operated for charitable or educational purposes, which is operated,  
17 supervised or controlled by or in connection with a religious  
18 organization, in the sale, lease or rental of real property, from  
19 limiting admission to or giving preference to persons of the same  
20 religion or denomination or from making such selection as is  
21 calculated by such organization to promote the religious principles  
22 for which it is established or maintained. Nor does any provision  
23 under this act regarding discrimination on the basis of familial  
24 status apply with respect to housing for older persons.

25 o. "Real estate broker" includes a person, firm or corporation  
26 who, for a fee, commission or other valuable consideration, or by  
27 reason of promise or reasonable expectation thereof, lists for sale,  
28 sells, exchanges, buys or rents, or offers or attempts to negotiate a  
29 sale, exchange, purchase, or rental of real estate or an interest  
30 therein, or collects or offers or attempts to collect rent for the use of  
31 real estate, or solicits for prospective purchasers or assists or directs  
32 in the procuring of prospects or the negotiation or closing of any  
33 transaction which does or is contemplated to result in the sale,  
34 exchange, leasing, renting or auctioning of any real estate, or  
35 negotiates, or offers or attempts or agrees to negotiate a loan  
36 secured or to be secured by mortgage or other encumbrance upon or  
37 transfer of any real estate for others; or any person who, for  
38 pecuniary gain or expectation of pecuniary gain conducts a public  
39 or private competitive sale of lands or any interest in lands. In the  
40 sale of lots, the term "real estate broker" shall also include any  
41 person, partnership, association or corporation employed by or on  
42 behalf of the owner or owners of lots or other parcels of real estate,  
43 at a stated salary, or upon a commission, or upon a salary and  
44 commission or otherwise, to sell such real estate, or any parts  
45 thereof, in lots or other parcels, and who shall sell or exchange, or  
46 offer or attempt or agree to negotiate the sale or exchange, of any  
47 such lot or parcel of real estate.

48 p. "Real estate salesperson" includes any person who, for

1 compensation, valuable consideration or commission, or other thing  
2 of value, or by reason of a promise or reasonable expectation  
3 thereof, is employed by and operates under the supervision of a  
4 licensed real estate broker to sell or offer to sell, buy or offer to buy  
5 or negotiate the purchase, sale or exchange of real estate, or offers  
6 or attempts to negotiate a loan secured or to be secured by a  
7 mortgage or other encumbrance upon or transfer of real estate, or to  
8 lease or rent, or offer to lease or rent any real estate for others, or to  
9 collect rents for the use of real estate, or to solicit for prospective  
10 purchasers or lessees of real estate, or who is employed by a  
11 licensed real estate broker to sell or offer to sell lots or other parcels  
12 of real estate, at a stated salary, or upon a commission, or upon a  
13 salary and commission, or otherwise to sell real estate, or any parts  
14 thereof, in lots or other parcels.

15 q. "Disability" means physical disability, infirmity, malformation  
16 or disfigurement which is caused by bodily injury, birth defect or  
17 illness including epilepsy and other seizure disorders, and which  
18 shall include, but not be limited to, any degree of paralysis,  
19 amputation, lack of physical coordination, blindness or visual  
20 impediment, deafness or hearing impediment, muteness or speech  
21 impediment or physical reliance on a service or guide dog,  
22 wheelchair, or other remedial appliance or device, or any mental,  
23 psychological or developmental disability resulting from  
24 anatomical, psychological, physiological or neurological conditions  
25 which prevents the normal exercise of any bodily or mental  
26 functions or is demonstrable, medically or psychologically, by  
27 accepted clinical or laboratory diagnostic techniques. Disability  
28 shall also mean AIDS or HIV infection.

29 r. "Blind person" means any individual whose central visual  
30 acuity does not exceed 20/200 in the better eye with correcting lens  
31 or whose visual acuity is better than 20/200 if accompanied by a  
32 limit to the field of vision in the better eye to such a degree that its  
33 widest diameter subtends an angle of no greater than 20 degrees.

34 s. "Guide dog" means a dog used to assist deaf persons or which  
35 is fitted with a special harness so as to be suitable as an aid to the  
36 mobility of a blind person, and is used by a blind person who has  
37 satisfactorily completed a specific course of training in the use of  
38 such a dog, and has been trained by an organization generally  
39 recognized by agencies involved in the rehabilitation of the blind or  
40 deaf as reputable and competent to provide dogs with training of  
41 this type.

42 t. "Guide or service dog trainer" means any person who is  
43 employed by an organization generally recognized by agencies  
44 involved in the rehabilitation of persons with disabilities as  
45 reputable and competent to provide dogs with training, and who is  
46 actually involved in the training process.

47 u. "Housing accommodation" means any publicly assisted  
48 housing accommodation or any real property, or portion thereof,

- 1 which is used or occupied, or is intended, arranged, or designed to  
2 be used or occupied, as the home, residence or sleeping place of one  
3 or more persons, but shall not include any single family residence  
4 the occupants of which rent, lease, or furnish for compensation not  
5 more than one room therein.
- 6 v. "Public facility" means any place of public accommodation  
7 and any street, highway, sidewalk, walkway, public building, and  
8 any other place or structure to which the general public is regularly,  
9 normally or customarily permitted or invited.
- 10 w. "Deaf person" means any person whose hearing is so  
11 severely impaired that the person is unable to hear and understand  
12 normal conversational speech through the unaided ear alone, and  
13 who must depend primarily on a supportive device or visual  
14 communication such as writing, lip reading, sign language, and  
15 gestures.
- 16 x. "Atypical hereditary cellular or blood trait" means sickle cell  
17 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
18 fibrosis trait.
- 19 y. "Sickle cell trait" means the condition wherein the major  
20 natural hemoglobin components present in the blood of the  
21 individual are hemoglobin A (normal) and hemoglobin S (sickle  
22 hemoglobin) as defined by standard chemical and physical analytic  
23 techniques, including electrophoresis; and the proportion of  
24 hemoglobin A is greater than the proportion of hemoglobin S or one  
25 natural parent of the individual is shown to have only normal  
26 hemoglobin components (hemoglobin A, hemoglobin A2,  
27 hemoglobin F) in the normal proportions by standard chemical and  
28 physical analytic tests.
- 29 z. "Hemoglobin C trait" means the condition wherein the major  
30 natural hemoglobin components present in the blood of the  
31 individual are hemoglobin A (normal) and hemoglobin C as defined  
32 by standard chemical and physical analytic techniques, including  
33 electrophoresis; and the proportion of hemoglobin A is greater than  
34 the proportion of hemoglobin C or one natural parent of the  
35 individual is shown to have only normal hemoglobin components  
36 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal  
37 proportions by standard chemical and physical analytic tests.
- 38 aa. "Thalassemia trait" means the presence of the thalassemia  
39 gene which in combination with another similar gene results in the  
40 chronic hereditary disease Cooley's anemia.
- 41 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
42 which in combination with another similar gene results in the  
43 chronic hereditary disease Tay-Sachs.
- 44 cc. "Cystic fibrosis trait" means the presence of the cystic  
45 fibrosis gene which in combination with another similar gene  
46 results in the chronic hereditary disease cystic fibrosis.
- 47 dd. "Service dog" means any dog individually trained to the  
48 requirements of a person with a disability including, but not limited

1 to minimal protection work, rescue work, pulling a wheelchair or  
2 retrieving dropped items. This term shall include a "seizure dog"  
3 trained to alert or otherwise assist persons subject to epilepsy or  
4 other seizure disorders.

5 ee. "Qualified Medicaid applicant" means an individual who is a  
6 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

7 ff. "AIDS" means acquired immune deficiency syndrome as  
8 defined by the Centers for Disease Control and Prevention of the  
9 United States Public Health Service.

10 gg. "HIV infection" means infection with the human  
11 immunodeficiency virus or any other related virus identified as a  
12 probable causative agent of AIDS.

13 hh. "Affectional or sexual orientation" means male or female  
14 heterosexuality, homosexuality or bisexuality by inclination,  
15 practice, identity or expression, having a history thereof or being  
16 perceived, presumed or identified by others as having such an  
17 orientation.

18 ii. "Heterosexuality" means affectional, emotional or physical  
19 attraction or behavior which is primarily directed towards persons  
20 of the other gender.

21 jj. "Homosexuality" means affectional, emotional or physical  
22 attraction or behavior which is primarily directed towards persons  
23 of the same gender.

24 kk. "Bisexuality" means affectional, emotional or physical  
25 attraction or behavior which is directed towards persons of either  
26 gender.

27 ll. "Familial status" means being the natural parent of a child,  
28 the adoptive parent of a child, the resource family parent of a child,  
29 having a "parent and child relationship" with a child as defined by  
30 State law, or having sole or joint legal or physical custody, care,  
31 guardianship, or visitation with a child, or any person who is  
32 pregnant or is in the process of securing legal custody of any  
33 individual who has not attained the age of 18 years.

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

35 (1) provided under any State program that the Attorney General  
36 determines is specifically designed and operated to assist elderly  
37 persons (as defined in the State program); or provided under any  
38 federal program that the United States Department of Housing and  
39 Urban Development determines is specifically designed and  
40 operated to assist elderly persons (as defined in the federal  
41 program); or

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

44 (3) intended and operated for occupancy by at least one person  
45 55 years of age or older per unit. In determining whether housing  
46 qualifies as housing for older persons under this subsection, the  
47 Attorney General shall adopt regulations which require at least the  
48 following factors:

1 (a) the existence of significant facilities and services specifically  
 2 designed to meet the physical or social needs of older persons, or if  
 3 the provision of such facilities and services is not practicable, that  
 4 such housing is necessary to provide important housing  
 5 opportunities for older persons; and

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

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

11 Housing shall not fail to meet the requirements for housing for  
 12 older persons by reason of: persons residing in such housing as of  
 13 September 13, 1988 not meeting the age requirements of this  
 14 subsection, provided that new occupants of such housing meet the  
 15 age requirements of this subsection; or unoccupied units, provided  
 16 that such units are reserved for occupancy by persons who meet the  
 17 age requirements of this subsection.

18 nn. "Genetic characteristic" means any inherited gene or  
 19 chromosome, or alteration thereof, that is scientifically or medically  
 20 believed to predispose an individual to a disease, disorder or  
 21 syndrome, or to be associated with a statistically significant  
 22 increased risk of development of a disease, disorder or syndrome.

23 oo. "Genetic information" means the information about genes,  
 24 gene products or inherited characteristics that may derive from an  
 25 individual or family member.

26 pp. "Genetic test" means a test for determining the presence or  
 27 absence of an inherited genetic characteristic in an individual,  
 28 including tests of nucleic acids such as DNA, RNA and  
 29 mitochondrial DNA, chromosomes or proteins in order to identify a  
 30 predisposing genetic characteristic.

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

33 rr. "Gender identity or expression" means having or being  
 34 perceived as having a gender related identity or expression whether  
 35 or not stereotypically associated with a person's assigned sex at  
 36 birth. <sup>2</sup>["Gender identity or expression" includes transgender  
 37 status. <sup>1</sup>]"<sup>2</sup>

38 (cf: P.L.2004, c.130, s.37)

39  
 40 5. Section 6 of P.L.1945, c.169 (C.10:5-6) is amended to read as  
 41 follows:

42 6. There is created in the Department of Law and Public Safety a  
 43 division known as "The Division on Civil Rights" with power to  
 44 prevent and eliminate discrimination in the manner prohibited by  
 45 this act against persons because of race, creed, color, national  
 46 origin, ancestry, age, marital status, affectional or sexual  
 47 orientation, gender identity or expression, familial status,  
 48 nationality, disability, or sex or because of their liability for service

1 in the Armed Forces of the United States, by employers, labor  
2 organizations, employment agencies or other persons and to take  
3 other actions against discrimination because of race, creed, color,  
4 national origin, ancestry, marital status, sex, familial status,  
5 nationality, disability, or age or because of their liability for service  
6 in the Armed Forces of the United States, as herein provided; and  
7 the division created hereunder is given general jurisdiction and  
8 authority for such purposes.

9 (cf: P.L.2003, c.180, s.7)

10

11 6. Section 8 of P.L.1945, c.169 (C.10:5-8) is amended to read as  
12 follows:

13 8. The Attorney General shall:

14 a. Exercise all powers of the division not vested in the  
15 commission.

16 b. Administer the work of the division.

17 c. Organize the division into sections, which shall include but  
18 not be limited to a section which shall receive, investigate, and act  
19 upon complaints alleging discrimination against persons because of  
20 race, creed, color, national origin, ancestry, age, marital status,  
21 affectional or sexual orientation, gender identity or expression,  
22 familial status, disability, nationality or sex or because of their  
23 liability for service in the Armed Forces of the United States; and  
24 another which shall, in order to eliminate prejudice and to further  
25 good will among the various racial and religious and nationality  
26 groups in this State, study, recommend, prepare and implement, in  
27 cooperation with such other departments of the State Government  
28 or any other agencies, groups or entities both public and private,  
29 such educational and human relations programs as are consonant  
30 with the objectives of this act; and prescribe the organization of said  
31 sections and the duties of his subordinates and assistants.

32 d. Appoint a Director of the Division on Civil Rights, who shall  
33 act for the Attorney General, in the Attorney General's place and  
34 with the Attorney General's powers, which appointment shall be  
35 subject to the approval of the commission and the Governor, a  
36 deputy director and such assistant directors, field representatives  
37 and assistants as may be necessary for the proper administration of  
38 the division and fix their compensation within the limits of  
39 available appropriations. The director, deputy director, assistant  
40 directors, field representatives and assistants shall not be subject to  
41 the Civil Service Act and shall be removable by the Attorney  
42 General at will.

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

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

48 g. Adopt, promulgate, amend, and rescind suitable rules and

1 regulations to carry out the provisions of this act.

2 h. Conduct investigations, receive complaints and conduct  
3 hearings thereon other than those complaints received and hearings  
4 held pursuant to the provisions of this act.

5 i. In connection with any investigation or hearing held pursuant  
6 to the provisions of this act, subpoena witnesses, compel their  
7 attendance, administer oaths, take the testimony of any person,  
8 under oath, and, in connection therewith, require the production for  
9 examination of any books or papers relating to any subject matter  
10 under investigation or in question by the division and conduct such  
11 discovery procedures which may include the taking of  
12 interrogatories and oral depositions as shall be deemed necessary by  
13 the Attorney General in any investigation. The Attorney General  
14 may make rules as to the issuance of subpoenas by the director.  
15 The failure of any witness when duly subpoenaed to attend, give  
16 testimony, or produce evidence shall be punishable by the Superior  
17 Court of New Jersey in the same manner as such failure is  
18 punishable by such court in a case therein pending.

19 j. Issue such publications and such results of investigations and  
20 research tending to promote good will and to minimize or eliminate  
21 discrimination because of race, creed, color, national origin,  
22 ancestry, age, marital status, affectional or sexual orientation,  
23 gender identity or expression, familial status, disability, nationality  
24 or sex, as the commission shall direct, subject to available  
25 appropriations.

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

28 l. Appoint, subject to the approval of the commission, a panel of  
29 not more than five hearing examiners, each of whom shall be duly  
30 licensed to practice law in this State for a period of at least five  
31 years, and each to serve for a term of one year and until his  
32 successor is appointed, any one of whom the director may designate  
33 in his place to conduct any hearing and recommend findings of fact  
34 and conclusions of law. The hearing examiners shall receive such  
35 compensation as may be determined by the Attorney General,  
36 subject to available appropriations.

37 (cf: P.L.2003, c.180, s.8)

38

39 7. Section 1 of P.L.1954, c.198 (C.10:5-9.1) is amended to read  
40 as follows:

41 1. The Division on Civil Rights in the Department of Law and  
42 Public Safety shall enforce the laws of this State against  
43 discrimination in housing built with, or leased with the assistance  
44 of, public funds or public assistance, pursuant to any law, and in  
45 real property, as defined in the law hereby supplemented, because  
46 of race, religious principles, color, national origin, ancestry, marital  
47 status, affectional or sexual orientation, familial status, disability,  
48 nationality, sex, gender identity or expression or source of lawful

1 income used for rental or mortgage payments. The said laws shall  
2 be so enforced in the manner prescribed in the act to which this act  
3 is a supplement.

4 (cf: P.L.2003, c.180, s.9)

5  
6 8. Section 9 of P.L.1945, c.169 (C.10:5-10) is amended to read  
7 as follows:

8 9. The commission shall:

9 a. Consult with and advise the Attorney General with respect to  
10 the work of the division.

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

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

15 The mayors or chief executive officers of the municipalities in  
16 the State may appoint local commissions on civil rights to aid in  
17 effectuating the purposes of this act. Such local commissions shall  
18 be composed of representative citizens serving without  
19 compensation. Such commissions shall attempt to foster through  
20 community effort or otherwise, good will, cooperation and  
21 conciliation among the groups and elements of the inhabitants of  
22 the community, and they may be empowered by the local governing  
23 bodies to make recommendations to them for the development of  
24 policies and procedures in general and for programs of formal and  
25 informal education that will aid in eliminating all types of  
26 discrimination based on race, creed, color, national origin, ancestry,  
27 age, marital status, affectional or sexual orientation, gender identity  
28 or expression, familial status, disability, nationality or sex.

29 (cf: P.L.2003, c.180, s.11)

30  
31 9. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read  
32 as follows:

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

35 a. For an employer, because of the race, creed, color, national  
36 origin, ancestry, age, marital status, domestic partnership status,  
37 affectional or sexual orientation, genetic information, sex, gender  
38 identity or expression, disability or atypical hereditary cellular or  
39 blood trait of any individual, or because of the liability for service  
40 in the Armed Forces of the United States or the nationality of any  
41 individual, or because of the refusal to submit to a genetic test or  
42 make available the results of a genetic test to an employer, to refuse  
43 to hire or employ or to bar or to discharge or require to retire, unless  
44 justified by lawful considerations other than age, from employment  
45 such individual or to discriminate against such individual in  
46 compensation or in terms, conditions or privileges of employment;  
47 provided, however, it shall not be an unlawful employment practice  
48 to refuse to accept for employment an applicant who has received a

1 notice of induction or orders to report for active duty in the armed  
2 forces; provided further that nothing herein contained shall be  
3 construed to bar an employer from refusing to accept for  
4 employment any person on the basis of sex in those certain  
5 circumstances where sex is a bona fide occupational qualification,  
6 reasonably necessary to the normal operation of the particular  
7 business or enterprise; provided further that nothing herein  
8 contained shall be construed to bar an employer from refusing to  
9 accept for employment or to promote any person over 70 years of  
10 age; provided further that it shall not be an unlawful employment  
11 practice for a club exclusively social or fraternal to use club  
12 membership as a uniform qualification for employment, or for a  
13 religious association or organization to utilize religious affiliation  
14 as a uniform qualification in the employment of clergy, religious  
15 teachers or other employees engaged in the religious activities of  
16 the association or organization, or in following the tenets of its  
17 religion in establishing and utilizing criteria for employment of an  
18 employee; provided further, that it shall not be an unlawful  
19 employment practice to require the retirement of any employee  
20 who, for the two-year period immediately before retirement, is  
21 employed in a bona fide executive or a high policy-making position,  
22 if that employee is entitled to an immediate non-forfeitable annual  
23 retirement benefit from a pension, profit sharing, savings or  
24 deferred retirement plan, or any combination of those plans, of the  
25 employer of that employee which equals in the aggregate at least  
26 \$27,000.00; and provided further that an employer may restrict  
27 employment to citizens of the United States where such restriction  
28 is required by federal law or is otherwise necessary to protect the  
29 national interest.

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

34 For the purposes of this subsection, a "bona fide executive" is a  
35 top level employee who exercises substantial executive authority  
36 over a significant number of employees and a large volume of  
37 business. A "high policy-making position" is a position in which a  
38 person plays a significant role in developing policy and in  
39 recommending the implementation thereof.

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

1 in, any apprentice or other training program or against any  
2 employer or any individual employed by an employer; provided,  
3 however, that nothing herein contained shall be construed to bar a  
4 labor organization from excluding from its apprentice or other  
5 training programs any person on the basis of sex in those certain  
6 circumstances where sex is a bona fide occupational qualification  
7 reasonably necessary to the normal operation of the particular  
8 apprentice or other training 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, domestic partnership status, affectional or sexual  
16 orientation, gender identity or expression, disability, nationality or  
17 sex or liability of any applicant for employment for service in the  
18 Armed Forces of the United States, or any intent to make any such  
19 limitation, specification or discrimination, unless based upon a bona  
20 fide occupational qualification.

21 d. For any person to take reprisals against any person because  
22 that person has opposed any practices or acts forbidden under this  
23 act or because that person has filed a complaint, testified or assisted  
24 in any proceeding under this act or to coerce, intimidate, threaten or  
25 interfere with any person in the exercise or enjoyment of, or on  
26 account of that person having aided or encouraged any other person  
27 in the exercise or enjoyment of, any right granted or protected by  
28 this act.

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

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

1 disability or nationality is unwelcome, objectionable or not  
2 acceptable, desired or solicited, and the production of any such  
3 written or printed communication, notice or advertisement,  
4 purporting to relate to any such place and to be made by any owner,  
5 lessee, proprietor, superintendent or manager thereof, shall be  
6 presumptive evidence in any action that the same was authorized by  
7 such person; provided, however, that nothing contained herein shall  
8 be construed to bar any place of public accommodation which is in  
9 its nature reasonably restricted exclusively to individuals of one  
10 sex, and which shall include but not be limited to any summer  
11 camp, day camp, or resort camp, bathhouse, dressing room,  
12 swimming pool, gymnasium, comfort station, dispensary, clinic or  
13 hospital, or school or educational institution which is restricted  
14 exclusively to individuals of one sex, 'provided individuals shall be  
15 admitted based on their gender identity or expression,' from  
16 refusing, withholding from or denying to any individual of the  
17 opposite sex any of the accommodations, advantages, facilities or  
18 privileges thereof on the basis of sex; provided further, that the  
19 foregoing limitation shall not apply to any restaurant as defined in  
20 R.S.33:1-1 or place where alcoholic beverages are served.

21 (2) Notwithstanding the definition of "public accommodation "  
22 as set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-  
23 5), for any owner, lessee, proprietor, manager, superintendent,  
24 agent, or employee of any private club or association to directly or  
25 indirectly refuse, withhold from or deny to any individual who has  
26 been accepted as a club member and has contracted for or is  
27 otherwise entitled to full club membership any of the  
28 accommodations, advantages, facilities or privileges thereof, or to  
29 discriminate against any member in the furnishing thereof on  
30 account of the race, creed, color, national origin, ancestry, marital  
31 status, domestic partnership status, sex, gender identity or  
32 expression, affectional or sexual orientation, disability or  
33 nationality of such person.

34 In addition to the penalties otherwise provided for a violation of  
35 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)  
36 of subsection f. of this section is the holder of an alcoholic beverage  
37 license issued under the provisions of R.S.33:1-12 for that private  
38 club or association, the matter shall be referred to the Director of  
39 the Division of Alcoholic Beverage Control who shall impose an  
40 appropriate penalty in accordance with the procedures set forth in  
41 R.S.33:1-31.

42 g. For any person, including but not limited to, any owner,  
43 lessee, sublessee, assignee or managing agent of, or other person  
44 having the right of ownership or possession of or the right to sell,  
45 rent, lease, assign, or sublease any real property or part or portion  
46 thereof, or any agent or employee of any of these:

1 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
2 to deny to or withhold from any person or group of persons any real  
3 property or part or portion thereof because of race, creed, color,  
4 national origin, ancestry, marital status, domestic partnership status,  
5 sex, gender identity or expression, affectional or sexual orientation,  
6 familial status, disability, nationality, or source of lawful income  
7 used for rental or mortgage payments;

8 (2) To discriminate against any person or group of persons  
9 because of race, creed, color, national origin, ancestry, marital  
10 status, domestic partnership status, sex, gender identity or  
11 expression, affectional or sexual orientation, familial status,  
12 disability, nationality or source of lawful income used for rental or  
13 mortgage payments in the terms, conditions or privileges of the  
14 sale, rental or lease of any real property or part or portion thereof or  
15 in the furnishing of facilities or services in connection therewith;

16 (3) To print, publish, circulate, issue, display, post or mail, or  
17 cause to be printed, published, circulated, issued, displayed, posted  
18 or mailed any statement, advertisement, publication or sign, or to  
19 use any form of application for the purchase, rental, lease,  
20 assignment or sublease of any real property or part or portion  
21 thereof, or to make any record or inquiry in connection with the  
22 prospective purchase, rental, lease, assignment, or sublease of any  
23 real property, or part or portion thereof which expresses, directly or  
24 indirectly, any limitation, specification or discrimination as to race,  
25 creed, color, national origin, ancestry, marital status, domestic  
26 partnership status, sex, gender identity or expression, affectional or  
27 sexual orientation, familial status, disability, nationality, or source  
28 of lawful income used for rental or mortgage payments, or any  
29 intent to make any such limitation, specification or discrimination,  
30 and the production of any such statement, advertisement, publicity,  
31 sign, form of application, record, or inquiry purporting to be made  
32 by any such person shall be presumptive evidence in any action that  
33 the same was authorized by such person; provided, however, that  
34 nothing contained in this subsection shall be construed to bar any  
35 person from refusing to sell, rent, lease, assign or sublease or from  
36 advertising or recording a qualification as to sex for any room,  
37 apartment, flat in a dwelling or residential facility which is planned  
38 exclusively for and occupied by individuals of one sex to any  
39 individual of the exclusively opposite sex on the basis of sex <sup>1</sup>,  
40 provided individuals shall be qualified based on their gender  
41 identity or expression<sup>1</sup>;

42 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
43 to deny to or withhold from any person or group of persons any real  
44 property or part or portion thereof because of the source of any  
45 lawful income received by the person or the source of any lawful  
46 rent payment to be paid for the real property; or

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

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

10 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
11 sale, rental, lease, assignment, or sublease any real property or part  
12 or portion thereof to any person or group of persons or to refuse to  
13 negotiate for the sale, rental, lease, assignment, or sublease of any  
14 real property or part or portion thereof to any person or group of  
15 persons because of race, creed, color, national origin, ancestry,  
16 marital status, domestic partnership status, familial status, sex,  
17 gender identity or expression, affectional or sexual orientation,  
18 disability, nationality, or source of lawful income used for rental or  
19 mortgage payments, or to represent that any real property or portion  
20 thereof is not available for inspection, sale, rental, lease,  
21 assignment, or sublease when in fact it is so available, or otherwise  
22 to deny or withhold any real property or any part or portion of  
23 facilities thereof to or from any person or group of persons because  
24 of race, creed, color, national origin, ancestry, marital status,  
25 domestic partnership status, familial status, sex, gender identity or  
26 expression, affectional or sexual orientation, disability or  
27 nationality;

28 (2) To discriminate against any person because of race, creed,  
29 color, national origin, ancestry, marital status, domestic partnership  
30 status, familial status, sex, gender identity or expression,  
31 affectional or sexual orientation, disability, nationality, or source of  
32 lawful income used for rental or mortgage payments in the terms,  
33 conditions or privileges of the sale, rental, lease, assignment or  
34 sublease of any real property or part or portion thereof or in the  
35 furnishing of facilities or services in connection therewith;

36 (3) To print, publish, circulate, issue, display, post, or mail, or  
37 cause to be printed, published, circulated, issued, displayed, posted  
38 or mailed any statement, advertisement, publication or sign, or to  
39 use any form of application for the purchase, rental, lease,  
40 assignment, or sublease of any real property or part or portion  
41 thereof or to make any record or inquiry in connection with the  
42 prospective purchase, rental, lease, assignment, or sublease of any  
43 real property or part or portion thereof which expresses, directly or  
44 indirectly, any limitation, specification or discrimination as to race,  
45 creed, color, national origin, ancestry, marital status, domestic  
46 partnership status, familial status, sex, gender identity or  
47 expression, affectional or sexual orientation, disability, nationality,

1 or source of lawful income used for rental or mortgage payments or  
2 any intent to make any such limitation, specification or  
3 discrimination, and the production of any such statement,  
4 advertisement, publicity, sign, form of application, record, or  
5 inquiry purporting to be made by any such person shall be  
6 presumptive evidence in any action that the same was authorized by  
7 such person; provided, however, that nothing contained in this  
8 subsection h., shall be construed to bar any person from refusing to  
9 sell, rent, lease, assign or sublease or from advertising or recording  
10 a qualification as to sex for any room, apartment, flat in a dwelling  
11 or residential facility which is planned exclusively for and occupied  
12 exclusively by individuals of one sex to any individual of the  
13 opposite sex on the basis of sex <sup>1</sup>, provided individuals shall be  
14 qualified based on their gender identity or expression<sup>1</sup>;

15 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
16 to deny to or withhold from any person or group of persons any real  
17 property or part or portion thereof because of the source of any  
18 lawful income received by the person or the source of any lawful  
19 rent payment to be paid for the real property; or

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

27 i. For any person, bank, banking organization, mortgage  
28 company, insurance company or other financial institution, lender  
29 or credit institution involved in the making or purchasing of any  
30 loan or extension of credit, for whatever purpose, whether secured  
31 by residential real estate or not, including but not limited to  
32 financial assistance for the purchase, acquisition, construction,  
33 rehabilitation, repair or maintenance of any real property or part or  
34 portion thereof or any agent or employee thereof:

35 (1) To discriminate against any person or group of persons  
36 because of race, creed, color, national origin, ancestry, marital  
37 status, domestic partnership status, sex, gender identity or  
38 expression, affectional or sexual orientation, disability, familial  
39 status or nationality, in the granting, withholding, extending,  
40 modifying, renewing, or purchasing, or in the fixing of the rates,  
41 terms, conditions or provisions of any such loan, extension of credit  
42 or financial assistance or purchase thereof or in the extension of  
43 services in connection therewith;

44 (2) To use any form of application for such loan, extension of  
45 credit or financial assistance or to make record or inquiry in  
46 connection with applications for any such loan, extension of credit  
47 or financial assistance which expresses, directly or indirectly, any

1 limitation, specification or discrimination as to race, creed, color,  
2 national origin, ancestry, marital status, domestic partnership status,  
3 sex, gender identity or expression, affectional or sexual orientation,  
4 disability, familial status or nationality or any intent to make any  
5 such limitation, specification or discrimination; unless otherwise  
6 required by law or regulation to retain or use such information;

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

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

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

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

23 k. For any real estate broker, real estate salesperson or employee  
24 or agent thereof or any other individual, corporation, partnership, or  
25 organization, for the purpose of inducing a transaction for the sale  
26 or rental of real property from which transaction such person or any  
27 of its members may benefit financially, to represent that a change  
28 has occurred or will or may occur in the composition with respect to  
29 race, creed, color, national origin, ancestry, marital status, domestic  
30 partnership status, familial status, sex, gender identity or  
31 expression, affectional or sexual orientation, disability, nationality,  
32 or source of lawful income used for rental or mortgage payments of  
33 the owners or occupants in the block, neighborhood or area in  
34 which the real property is located, and to represent, directly or  
35 indirectly, that this change will or may result in undesirable  
36 consequences in the block, neighborhood or area in which the real  
37 property is located, including, but not limited to the lowering of  
38 property values, an increase in criminal or anti-social behavior, or a  
39 decline in the quality of schools or other facilities.

40 l. For any person to refuse to buy from, sell to, lease from or to,  
41 license, contract with, or trade with, provide goods, services or  
42 information to, or otherwise do business with any other person on  
43 the basis of the race, creed, color, national origin, ancestry, age,  
44 sex, gender identity or expression, affectional or sexual  
45 orientation, marital status, domestic partnership status, liability for  
46 service in the Armed Forces of the United States, disability,  
47 nationality, or source of lawful income used for rental or mortgage

1 payments of such other person or of such other person's spouse,  
2 partners, members, stockholders, directors, officers, managers,  
3 superintendents, agents, employees, business associates, suppliers,  
4 or customers. This subsection shall not prohibit refusals or other  
5 actions (1) pertaining to employee-employer collective bargaining,  
6 labor disputes, or unfair labor practices, or (2) made or taken in  
7 connection with a protest of unlawful discrimination or unlawful  
8 employment practices.

9 m. For any person to:

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

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

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

36 n. For any person to aid, abet, incite, compel, coerce, or induce  
37 the doing of any act forbidden by subsections l. and m. of section  
38 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to  
39 do so. Such prohibited conduct shall include, but not be limited to:

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

45 (2) Boycotting, commercially blacklisting or refusing to buy  
46 from, sell to, lease from or to, license, contract with, provide goods,  
47 services or information to, or otherwise do business with any person

1 because that person has not done or refuses to do any such act or  
2 any act prohibited by this subsection; provided that this subsection  
3 shall not prohibit refusals or other actions either pertaining to  
4 employee-employer collective bargaining, labor disputes, or unfair  
5 labor practices, or made or taken in connection with a protest of  
6 unlawful discrimination or unlawful employment practices.

7 o. For any multiple listing service, real estate brokers'  
8 organization or other service, organization or facility related to the  
9 business of selling or renting dwellings to deny any person access  
10 to or membership or participation in such organization, or to  
11 discriminate against such person in the terms or conditions of such  
12 access, membership, or participation, on account of race, creed,  
13 color, national origin, ancestry, age, marital status, domestic  
14 partnership status, familial status, sex, gender identity or  
15 expression, affectional or sexual orientation, disability or  
16 nationality.

17 'p. Nothing in the provisions of this section shall affect the  
18 ability of an employer to require employees to adhere to reasonable  
19 workplace appearance, grooming and dress standards not precluded  
20 by other provisions of State or federal law, except that an employer  
21 shall allow an employee to appear, groom and dress consistent with  
22 the employee's gender identity or expression.'<sup>1</sup>

23 (cf: P.L.2003, c.246, s.12)

24

25 10. Section 12 of P.L.1992, c.146 (C.10:5-12.5) is amended to  
26 read as follows:

27 12. a. It shall be an unlawful discrimination for a municipality,  
28 county or other local civil or political subdivision of the State of  
29 New Jersey, or an officer, employee, or agent thereof, to exercise  
30 the power to regulate land use or housing in a manner that  
31 discriminates on the basis of race, creed, color, national origin,  
32 ancestry, marital status, familial status, sex, gender identity or  
33 expression, nationality or disability.

34 b. Notwithstanding the provisions of section 12 of P.L.1945,  
35 c.169 (C.10:5-13) any person claiming to be aggrieved by an  
36 unlawful discrimination under this section shall enforce this section  
37 by private right of action in Superior Court. This section shall not  
38 apply to discrimination in housing owned or managed by a  
39 municipality, county or other local civil or political subdivision of  
40 the State of New Jersey where such discrimination is otherwise  
41 prohibited by section 11 of P.L.1945, c.169 (C.10:5-12).

42 (cf: P.L.2003, c.180, s.13)

43

44 11. Section 26 of P.L.1945, c.169 (C.10:5-27) is amended to  
45 read as follows:

46 26. The provisions of this act shall be construed fairly and justly  
47 with due regard to the interests of all parties. Nothing contained in

1 this act shall be deemed to repeal any of the provisions of the Civil  
2 Rights Law or of any other law of this State relating to  
3 discrimination because of race, creed, color, national origin,  
4 ancestry, marital status, affectional or sexual orientation, disability,  
5 gender identity or expression, nationality or sex or liability for  
6 service in the Armed Forces of the United States; except that, as to  
7 practices and acts declared unlawful by section 11 of this act, the  
8 procedure herein provided shall, while pending, be exclusive; and  
9 the final determination therein shall exclude any other action, civil  
10 or criminal, based on the same grievance of the individual  
11 concerned. Nothing herein contained shall bar, exclude or otherwise  
12 affect any right or action, civil or criminal, which may exist  
13 independently of any right to redress against or specific relief from  
14 any unlawful employment practice or unlawful discrimination.  
15 With respect only to affectional or sexual orientation and gender  
16 identity or expression, nothing contained herein shall be construed  
17 to require the imposition of affirmative action, plans or quotas as  
18 specific relief from an unlawful employment practice or unlawful  
19 discrimination.

20 (cf: P.L.2003, c.180, s.17)

21

22 12. Section 1 of P.L.1975, c.127 (C.10:5-31) is amended to read  
23 as follows:

24 1. As used in this act:

25 a. "Public works contract" means any contract to be performed  
26 for or on behalf of the State or any county or municipality or other  
27 political subdivision of the State, or any agency or authority created  
28 by any of the foregoing, for the construction, alteration or repair of  
29 any building or public work or for the acquisition of materials,  
30 equipment, supplies or services with respect to which  
31 discrimination in the hiring of persons for the performance of work  
32 thereunder or under any subcontract thereunder by reason of race,  
33 creed, color, national origin, ancestry, marital status, affectional or  
34 sexual orientation, nationality, gender identity or expression,  
35 disability or sex is prohibited under R.S.10:2-1.

36 b. "Equal employment opportunity" means equality in  
37 opportunity for employment by any contractor, subcontractor or  
38 business firm engaged in the carrying out of a public works project  
39 including its development, design, acquisition, construction,  
40 management and operation.

41 (cf: P.L.2003, c.180, s.24)

42

43 13. Section 2 of P.L.1975, c.127 (C.10:5-32) is amended to read  
44 as follow:

45 2. No public works contract shall be awarded by the State, a  
46 county, municipality or other political subdivision of the State, or  
47 any agency of or authority created by any of the foregoing, nor shall  
48 any moneys be paid thereunder to any contractor, subcontractor or

1 business firm which has not agreed and guaranteed to afford equal  
2 opportunity in performance of the contract and, except with respect  
3 to affectional or sexual orientation, and gender identity or  
4 expression, in accordance with an affirmative action program  
5 approved by the State Treasurer.  
6 (cf: P.L.1991, c.519, s.12)  
7

8 14. Section 3 of P.L.1975, c.127 (C.10:5-33) is amended to read  
9 as follows:

10 3. The State or any county or municipality or other political  
11 subdivision of the State, or any agency of or authority created by  
12 any of the foregoing, shall include in the bid specifications and the  
13 contract provisions of any public works contract the following  
14 language:

15 "During the performance of this contract, the contractor agrees as  
16 follows:

17 a. The contractor or subcontractor, where applicable, will not  
18 discriminate against any employee or applicant for employment  
19 because of age, race, creed, color, national origin, ancestry, marital  
20 status, affectional or sexual orientation, gender identity or  
21 expression, disability, nationality or sex. Except with respect to  
22 affectional or sexual orientation and gender identity or expression,  
23 the contractor will take affirmative action to ensure that such  
24 applicants are recruited and employed, and that employees are  
25 treated during employment, without regard to their age, race, creed,  
26 color, national origin, ancestry, marital status, affectional or sexual  
27 orientation, gender identity or expression, disability, nationality or  
28 sex. Such action shall include, but not be limited to the following:  
29 employment, upgrading, demotion, or transfer; recruitment or  
30 recruitment advertising; layoff or termination; rates of pay or other  
31 forms of compensation; and selection for training, including  
32 apprenticeship. The contractor agrees to post in conspicuous  
33 places, available to employees and applicants for employment,  
34 notices to be provided by the contracting officer setting forth the  
35 provisions of this nondiscrimination clause;

36 b. The contractor or subcontractor, where applicable will, in all  
37 solicitations or advertisements for employees placed by or on behalf  
38 of the contractor, state that all qualified applicants will receive  
39 consideration for employment without regard to age, race, creed,  
40 color, national origin, ancestry, marital status, affectional or sexual  
41 orientation, gender identity or expression, disability, nationality or  
42 sex;

43 c. The contractor or subcontractor where applicable, will send to  
44 each labor union or representative of workers with which he has a  
45 collective bargaining agreement or other contract or understanding,  
46 a notice, to be provided by the agency contracting officer, advising  
47 the labor union or workers' representative of the contractor's  
48 commitments under this act and shall post copies of the notice in

1 conspicuous places available to employees and applicants for  
2 employment."

3 In soliciting bids for any public works contract the State or any  
4 county or municipality or other political subdivision of the State, or  
5 any agency of or authority created by any of the foregoing, shall  
6 include in the advertisement and solicitation of bids the following  
7 language: "Bidders are required to comply with the requirements of  
8 P.L.1975, c.127."

9 (cf: P.L.2003, c.180, s.25)

10

11 15. Section 4 of P.L.1975, c.127 (C.10:5-34) is amended to read  
12 as follows:

13 4. Each prospective bidder on a public works contract or  
14 contracts and each subcontract bidder to a prime contract bidder  
15 shall formulate and submit to the State Treasurer his or its  
16 affirmative action program of equal opportunity whereby he or it  
17 guarantees minorities employment in all employment categories;  
18 the submission shall be accompanied by a fee in an amount to be  
19 fixed by the State Treasurer. For the purposes of this section, equal  
20 employment opportunity but not affirmative action is required with  
21 respect to persons identified solely by their affectional or sexual  
22 orientation and gender identity or expression. The State Treasurer  
23 shall notify the bidder of approval or disapproval of his or its  
24 program within 60 days of its submission; failure of the State  
25 Treasurer to so act within 60 days shall constitute approval of the  
26 program. Any existing federally approved or sanctioned affirmative  
27 action program shall be approved by the State Treasurer.

28 No subcontract bidder who has less than five employees need  
29 comply with the provisions of this section.

30 (cf: P.L.1991, c.519, s.14)

31

32 <sup>1</sup>[16. (New section) a. Nothing in P.L. , c. (C. )(now  
33 pending before this Legislature as this bill) shall affect the ability of  
34 an employer to require employees to adhere to reasonable  
35 workplace appearance, grooming, and dress standards not precluded  
36 by other provisions of State or federal law, provided that an  
37 employer must allow an employee to appear, groom, and dress  
38 consistently with the employee's gender identity or expression.

39 b. For the purposes of P.L. , c. (C. )(now pending before  
40 this Legislature as this bill), a person shall be admitted to housing,  
41 facilities and accommodations based on their gender identity or  
42 expression, unless the Division of Civil Rights grants an  
43 exemption.]<sup>1</sup>

44

45 <sup>1</sup>[17.] 16.<sup>1</sup> This act shall take effect on the 180th day following  
46 enactment.

1

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2

3 Amends "Law against Discrimination" concerning gender

4 identity or expression discrimination.