

[Second Reprint]

**ASSEMBLY, No. 3451**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

INTRODUCED OCTOBER 19, 2006

**Sponsored by:**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen, Essex and Passaic)**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**Co-Sponsored by:**

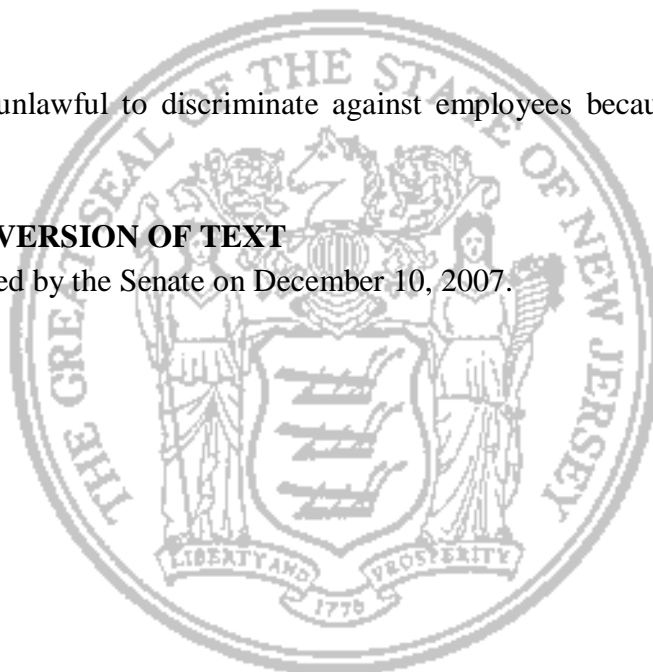
**Assemblymen Steele, Johnson, Assemblywoman Voss, Assemblyman Chivukula, Assemblywomen Oliver, Beck, Assemblymen Scalera, Payne, Gordon, Vas, Conners, Stack, Assemblywoman Greenstein, Assemblyman Burzichelli, Assemblywoman Lampitt, Senators Weinberg, Sarlo, Coniglio, Karcher and Lance**

**SYNOPSIS**

Makes it unlawful to discriminate against employees because of religious practices.

**CURRENT VERSION OF TEXT**

As amended by the Senate on December 10, 2007.



**(Sponsorship Updated As Of: 12/18/2007)**

1 AN ACT concerning discrimination of religious practices in the  
2 workplace and amending P.L.1945, c.169.

3

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

6

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

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

11 a. "Person" includes one or more individuals, partnerships,  
12 associations, organizations, labor organizations, corporations, legal  
13 representatives, trustees, trustees in bankruptcy, receivers, and  
14 fiduciaries.

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

17 c. "Labor organization" includes any organization which exists  
18 and is constituted for the purpose, in whole or in part, of collective  
19 bargaining, or of dealing with employers concerning grievances,  
20 terms or conditions of employment, or of other mutual aid or  
21 protection in connection with employment.

22 d. "Unlawful employment practice" and "unlawful  
23 discrimination" include only those unlawful practices and acts  
24 specified in section 11 of this act.

25 e. "Employer" includes all persons as defined in subsection a.  
26 of this section unless otherwise specifically exempt under another  
27 section of this act, and includes the State, any political or civil  
28 subdivision thereof, and all public officers, agencies, boards or  
29 bodies.

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

32 g. "Liability for service in the Armed Forces of the United  
33 States" means subject to being ordered as an individual or member  
34 of an organized unit into active service in the Armed Forces of the  
35 United States by reason of membership in the National Guard, naval  
36 militia or a reserve component of the Armed Forces of the United  
37 States, or subject to being inducted into such armed forces through  
38 a system of national selective service.

39 h. "Division" means the "Division on Civil Rights" created by  
40 this act.

41 i. "Attorney General" means the Attorney General of the State  
42 of New Jersey or his representative or designee.

43 j. "Commission" means the Commission on Civil Rights  
44 created by this act.

**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>Assembly ALA committee amendments adopted February 26, 2007.

<sup>2</sup>Senate floor amendments adopted December 10, 2007.

- 1 k. "Director" means the Director of the Division on Civil  
2 Rights.
- 3 l. "A place of public accommodation" shall include, but not be  
4 limited to: any tavern, roadhouse, hotel, motel, trailer camp,  
5 summer camp, day camp, or resort camp, whether for entertainment  
6 of transient guests or accommodation of those seeking health,  
7 recreation or rest; any producer, manufacturer, wholesaler,  
8 distributor, retail shop, store, establishment, or concession dealing  
9 with goods or services of any kind; any restaurant, eating house, or  
10 place where food is sold for consumption on the premises; any  
11 place maintained for the sale of ice cream, ice and fruit preparations  
12 or their derivatives, soda water or confections, or where any  
13 beverages of any kind are retailed for consumption on the premises;  
14 any garage, any public conveyance operated on land or water, or in  
15 the air, any stations and terminals thereof; any bathhouse,  
16 boardwalk, or seashore accommodation; any auditorium, meeting  
17 place, or hall; any theatre, motion-picture house, music hall, roof  
18 garden, skating rink, swimming pool, amusement and recreation  
19 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
20 pool parlor, or other place of amusement; any comfort station; any  
21 dispensary, clinic or hospital; any public library; any kindergarten,  
22 primary and secondary school, trade or business school, high  
23 school, academy, college and university, or any educational  
24 institution under the supervision of the State Board of Education, or  
25 the Commissioner of Education of the State of New Jersey.  
26 Nothing herein contained shall be construed to include or to apply  
27 to any institution, bona fide club, or place of accommodation, which  
28 is in its nature distinctly private; nor shall anything herein contained  
29 apply to any educational facility operated or maintained by a bona  
30 fide religious or sectarian institution, and the right of a natural  
31 parent or one in loco parentis to direct the education and upbringing  
32 of a child under his control is hereby affirmed; nor shall anything  
33 herein contained be construed to bar any private secondary or post  
34 secondary school from using in good faith criteria other than race,  
35 creed, color, national origin, ancestry<sup>1</sup>, gender identity or  
36 expression<sup>1</sup> or affectional or sexual orientation in the admission of  
37 students.
- 38 m. "A publicly assisted housing accommodation" shall include  
39 all housing built with public funds or public assistance pursuant to  
40 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,  
41 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,  
42 c.184, and all housing financed in whole or in part by a loan,  
43 whether or not secured by a mortgage, the repayment of which is  
44 guaranteed or insured by the federal government or any agency  
45 thereof.
- 46 n. The term "real property" includes real estate, lands,  
47 tenements and hereditaments, corporeal and incorporeal, and  
48 leaseholds, provided, however, that, except as to publicly assisted

1 housing accommodations, the provisions of this act shall not apply  
2 to the rental: (1) of a single apartment or flat in a two-family  
3 dwelling, the other occupancy unit of which is occupied by the  
4 owner as a residence; or (2) 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. Nothing herein contained shall be construed to bar any  
8 religious or denominational institution or organization, or any  
9 organization operated for charitable or educational purposes, which  
10 is operated, supervised or controlled by or in connection with a  
11 religious organization, in the sale, lease or rental of real property,  
12 from limiting admission to or giving preference to persons of the  
13 same religion or denomination or from making such selection as is  
14 calculated by such organization to promote the religious principles  
15 for which it is established or maintained. Nor does any provision  
16 under this act regarding discrimination on the basis of familial  
17 status apply with respect to housing for older persons.

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

41 p. "Real estate salesperson" includes any person who, for  
42 compensation, valuable consideration or commission, or other thing  
43 of value, or by reason of a promise or reasonable expectation  
44 thereof, is employed by and operates under the supervision of a  
45 licensed real estate broker to sell or offer to sell, buy or offer to buy  
46 or negotiate the purchase, sale or exchange of real estate, or offers  
47 or attempts to negotiate a loan secured or to be secured by a  
48 mortgage or other encumbrance upon or transfer of real estate, or to

1 lease or rent, or offer to lease or rent any real estate for others, or to  
2 collect rents for the use of real estate, or to solicit for prospective  
3 purchasers or lessees of real estate, or who is employed by a  
4 licensed real estate broker to sell or offer to sell lots or other parcels  
5 of real estate, at a stated salary, or upon a commission, or upon a  
6 salary and commission, or otherwise to sell real estate, or any parts  
7 thereof, in lots or other parcels.

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

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

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

35 t. "Guide or service dog trainer" means any person who is  
36 employed by an organization generally recognized by agencies  
37 involved in the rehabilitation of persons with disabilities as  
38 reputable and competent to provide dogs with training, and who is  
39 actually involved in the training process.

40 u. "Housing accommodation" means any publicly assisted  
41 housing accommodation or any real property, or portion thereof,  
42 which is used or occupied, or is intended, arranged, or designed to  
43 be used or occupied, as the home, residence or sleeping place of one  
44 or more persons, but shall not include any single family residence  
45 the occupants of which rent, lease, or furnish for compensation not  
46 more than one room therein.

47 v. "Public facility" means any place of public accommodation  
48 and any street, highway, sidewalk, walkway, public building, and

- 1 any other place or structure to which the general public is regularly,  
2 normally or customarily permitted or invited.
- 3 w. "Deaf person" means any person whose hearing is so  
4 severely impaired that the person is unable to hear and understand  
5 normal conversational speech through the unaided ear alone, and  
6 who must depend primarily on a supportive device or visual  
7 communication such as writing, lip reading, sign language, and  
8 gestures.
- 9 x. "Atypical hereditary cellular or blood trait" means sickle cell  
10 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
11 fibrosis trait.
- 12 y. "Sickle cell trait" means the condition wherein the major  
13 natural hemoglobin components present in the blood of the  
14 individual are hemoglobin A (normal) and hemoglobin S (sickle  
15 hemoglobin) as defined by standard chemical and physical analytic  
16 techniques, including electrophoresis; and the proportion of  
17 hemoglobin A is greater than the proportion of hemoglobin S or one  
18 natural parent of the individual is shown to have only normal  
19 hemoglobin components (hemoglobin A, hemoglobin A2,  
20 hemoglobin F) in the normal proportions by standard chemical and  
21 physical analytic tests.
- 22 z. "Hemoglobin C trait" means the condition wherein the major  
23 natural hemoglobin components present in the blood of the  
24 individual are hemoglobin A (normal) and hemoglobin C as defined  
25 by standard chemical and physical analytic techniques, including  
26 electrophoresis; and the proportion of hemoglobin A is greater than  
27 the proportion of hemoglobin C or one natural parent of the  
28 individual is shown to have only normal hemoglobin components  
29 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal  
30 proportions by standard chemical and physical analytic tests.
- 31 aa. "Thalassemia trait" means the presence of the thalassemia  
32 gene which in combination with another similar gene results in the  
33 chronic hereditary disease Cooley's anemia.
- 34 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
35 which in combination with another similar gene results in the  
36 chronic hereditary disease Tay-Sachs.
- 37 cc. "Cystic fibrosis trait" means the presence of the cystic  
38 fibrosis gene which in combination with another similar gene  
39 results in the chronic hereditary disease cystic fibrosis.
- 40 dd. "Service dog" means any dog individually trained to the  
41 requirements of a person with a disability including, but not limited  
42 to minimal protection work, rescue work, pulling a wheelchair or  
43 retrieving dropped items. This term shall include a "seizure dog"  
44 trained to alert or otherwise assist persons subject to epilepsy or  
45 other seizure disorders.
- 46 ee. "Qualified Medicaid applicant" means an individual who is a  
47 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

- 1 ff. "AIDS" means acquired immune deficiency syndrome as  
2 defined by the Centers for Disease Control and Prevention of the  
3 United States Public Health Service.
- 4 gg. "HIV infection" means infection with the human  
5 immunodeficiency virus or any other related virus identified as a  
6 probable causative agent of AIDS.
- 7 hh. "Affectional or sexual orientation" means male or female  
8 heterosexuality, homosexuality or bisexuality by inclination,  
9 practice, identity or expression, having a history thereof or being  
10 perceived, presumed or identified by others as having such an  
11 orientation.
- 12 ii. "Heterosexuality" means affectional, emotional or physical  
13 attraction or behavior which is primarily directed towards persons  
14 of the other gender.
- 15 jj. "Homosexuality" means affectional, emotional or physical  
16 attraction or behavior which is primarily directed towards persons  
17 of the same gender.
- 18 kk. "Bisexuality" means affectional, emotional or physical  
19 attraction or behavior which is directed towards persons of either  
20 gender.
- 21 ll. "Familial status" means being the natural parent of a child,  
22 the adoptive parent of a child, the resource family parent of a child,  
23 having a "parent and child relationship" with a child as defined by  
24 State law, or having sole or joint legal or physical custody, care,  
25 guardianship, or visitation with a child, or any person who is  
26 pregnant or is in the process of securing legal custody of any  
27 individual who has not attained the age of 18 years.
- 28 mm. "Housing for older persons" means housing:
- 29 (1) provided under any State program that the Attorney General  
30 determines is specifically designed and operated to assist elderly  
31 persons (as defined in the State program); or provided under any  
32 federal program that the United States Department of Housing and  
33 Urban Development determines is specifically designed and  
34 operated to assist elderly persons (as defined in the federal  
35 program); or
- 36 (2) intended for, and solely occupied by persons 62 years of age  
37 or older; or
- 38 (3) intended and operated for occupancy by at least one person  
39 55 years of age or older per unit. In determining whether housing  
40 qualifies as housing for older persons under this subsection, the  
41 Attorney General shall adopt regulations which require at least the  
42 following factors:
- 43 (a) the existence of significant facilities and services  
44 specifically designed to meet the physical or social needs of older  
45 persons, or if the provision of such facilities and services is not  
46 practicable, that such housing is necessary to provide important  
47 housing opportunities for older persons; and

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

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

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

13 nn. "Genetic characteristic" means any inherited gene or  
14 chromosome, or alteration thereof, that is scientifically or medically  
15 believed to predispose an individual to a disease, disorder or  
16 syndrome, or to be associated with a statistically significant  
17 increased risk of development of a disease, disorder or syndrome.

18 oo. "Genetic information" means the information about genes,  
19 gene products or inherited characteristics that may derive from an  
20 individual or family member.

21 pp. "Genetic test" means a test for determining the presence or  
22 absence of an inherited genetic characteristic in an individual,  
23 including tests of nucleic acids such as DNA, RNA and  
24 mitochondrial DNA, chromosomes or proteins in order to identify a  
25 predisposing genetic characteristic.

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

28 rr. "Gender identity or expression" means having or being  
29 perceived as having a gender related identity or expression whether  
30 or not stereotypically associated with a person's assigned sex at  
31 birth.

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

35 tt.<sup>1</sup> "Premium wages" means <sup>2</sup>[overtime pay, compensatory time  
36 off,]<sup>2</sup> additional remuneration for night, weekend or holiday work,  
37 or for standby or irregular duty.

38 <sup>1</sup>[ss.] uu.<sup>1</sup> "Premium benefit" means an employment benefit,  
39 such as seniority, group life insurance, health insurance, disability  
40 insurance, sick leave, annual leave, or an educational or pension  
41 benefit that is greater than the employment benefit due the  
42 employee for an equivalent period of work performed during the  
43 regular work schedule of the employee.

44 (cf: P.L.2006, c.103, s.87)

45

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



1        11. It shall be an unlawful employment practice, or, as the case  
2 may be, an unlawful discrimination:  
3        a. For an employer, because of the race, creed, color, national  
4 origin, ancestry, age, marital status, 'civil union status,' domestic  
5 partnership status, affectional or sexual orientation, genetic  
6 information, sex, 'gender identity or expression,' disability or  
7 atypical hereditary cellular or blood trait of any individual, or  
8 because of the liability for service in the Armed Forces of the  
9 United States or the nationality of any individual, or because of the  
10 refusal to submit to a genetic test or make available the results of a  
11 genetic test to an employer, to refuse to hire or employ or to bar or  
12 to discharge or require to retire, unless justified by lawful  
13 considerations other than age, from employment such individual or  
14 to discriminate against such individual in compensation or in terms,  
15 conditions or privileges of employment; provided, however, it shall  
16 not be an unlawful employment practice to refuse to accept for  
17 employment an applicant who has received a notice of induction or  
18 orders to report for active duty in the armed forces; provided further  
19 that nothing herein contained shall be construed to bar an employer  
20 from refusing to accept for employment any person on the basis of  
21 sex in those certain circumstances where sex is a bona fide  
22 occupational qualification, reasonably necessary to the normal  
23 operation of the particular business or enterprise; provided further  
24 that nothing herein contained shall be construed to bar an employer  
25 from refusing to accept for employment or to promote any person  
26 over 70 years of age; provided further that it shall not be an  
27 unlawful employment practice for a club exclusively social or  
28 fraternal to use club membership as a uniform qualification for  
29 employment, or for a religious association or organization to utilize  
30 religious affiliation as a uniform qualification in the employment of  
31 clergy, religious teachers or other employees engaged in the  
32 religious activities of the association or organization, or in  
33 following the tenets of its religion in establishing and utilizing  
34 criteria for employment of an employee; provided further, that it  
35 shall not be an unlawful employment practice to require the  
36 retirement of any employee who, for the two-year period  
37 immediately before retirement, is employed in a bona fide executive  
38 or a high policy-making position, if that employee is entitled to an  
39 immediate non-forfeitable annual retirement benefit from a pension,  
40 profit sharing, savings or deferred retirement plan, or any  
41 combination of those plans, of the employer of that employee which  
42 equals in the aggregate at least \$27,000.00; and provided further  
43 that an employer may restrict employment to citizens of the United  
44 States where such restriction is required by federal law or is  
45 otherwise necessary to protect the national interest.  
46        The provisions of subsections a. and b. of section 57 of  
47 P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of

1 P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an  
2 unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

3 For the purposes of this subsection, a "bona fide executive" is a  
4 top level employee who exercises substantial executive authority  
5 over a significant number of employees and a large volume of  
6 business. A "high policy-making position" is a position in which a  
7 person plays a significant role in developing policy and in  
8 recommending the implementation thereof.

9 b. For a labor organization, because of the race, creed, color,  
10 national origin, ancestry, age, marital status, 'civil union status,'  
11 domestic partnership status, affectional or sexual orientation,  
12 'gender identity or expression,' disability or sex of any individual,  
13 or because of the liability for service in the Armed Forces of the  
14 United States or nationality of any individual, to exclude or to expel  
15 from its membership such individual or to discriminate in any way  
16 against any of its members, against any applicant for, or individual  
17 included in, any apprentice or other training program or against any  
18 employer or any individual employed by an employer; provided,  
19 however, that nothing herein contained shall be construed to bar a  
20 labor organization from excluding from its apprentice or other  
21 training programs any person on the basis of sex in those certain  
22 circumstances where sex is a bona fide occupational qualification  
23 reasonably necessary to the normal operation of the particular  
24 apprentice or other training program.

25 c. For any employer or employment agency to print or circulate  
26 or cause to be printed or circulated any statement, advertisement or  
27 publication, or to use any form of application for employment, or to  
28 make an inquiry in connection with prospective employment, which  
29 expresses, directly or indirectly, any limitation, specification or  
30 discrimination as to race, creed, color, national origin, ancestry,  
31 age, marital status, 'civil union status,' domestic partnership status,  
32 affectional or sexual orientation, 'gender identity or expression,'  
33 disability, nationality or sex or liability of any applicant for  
34 employment for service in the Armed Forces of the United States,  
35 or any intent to make any such limitation, specification or  
36 discrimination, unless based upon a bona fide occupational  
37 qualification.

38 d. For any person to take reprisals against any person because  
39 that person has opposed any practices or acts forbidden under this  
40 act or because that person has filed a complaint, testified or assisted  
41 in any proceeding under this act or to coerce, intimidate, threaten or  
42 interfere with any person in the exercise or enjoyment of, or on  
43 account of that person having aided or encouraged any other person  
44 in the exercise or enjoyment of, any right granted or protected by  
45 this act.

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

1 f. (1) For any owner, lessee, proprietor, manager,  
2 superintendent, agent, or employee of any place of public  
3 accommodation directly or indirectly to refuse, withhold from or  
4 deny to any person any of the accommodations, advantages,  
5 facilities or privileges thereof, or to discriminate against any person  
6 in the furnishing thereof, or directly or indirectly to publish,  
7 circulate, issue, display, post or mail any written or printed  
8 communication, notice, or advertisement to the effect that any of  
9 the accommodations, advantages, facilities, or privileges of any  
10 such place will be refused, withheld from, or denied to any person  
11 on account of the race, creed, color, national origin, ancestry,  
12 marital status, <sup>1</sup>civil union status, <sup>1</sup>domestic partnership status, sex,  
13 <sup>1</sup>gender identity or expression, <sup>1</sup>affectional or sexual orientation,  
14 disability or nationality of such person, or that the patronage or  
15 custom thereat of any person of any particular race, creed, color,  
16 national origin, ancestry, marital status, <sup>1</sup>civil union status, <sup>1</sup>  
17 domestic partnership status, sex, <sup>1</sup>gender identity or expression, <sup>1</sup>  
18 affectional or sexual orientation, disability or nationality is  
19 unwelcome, objectionable or not acceptable, desired or solicited,  
20 and the production of any such written or printed communication,  
21 notice or advertisement, purporting to relate to any such place and  
22 to be made by any owner, lessee, proprietor, superintendent or  
23 manager thereof, shall be presumptive evidence in any action that  
24 the same was authorized by such person; provided, however, that  
25 nothing contained herein shall be construed to bar any place of  
26 public accommodation which is in its nature reasonably restricted  
27 exclusively to individuals of one sex, and which shall include but  
28 not be limited to any summer camp, day camp, or resort camp,  
29 bathhouse, dressing room, swimming pool, gymnasium, comfort  
30 station, dispensary, clinic or hospital, or school or educational  
31 institution which is restricted exclusively to individuals of one sex,  
32 <sup>2</sup>provided individuals shall be admitted based on their gender  
33 identity or expression, <sup>2</sup> from refusing, withholding from or denying  
34 to any individual of the opposite sex any of the accommodations,  
35 advantages, facilities or privileges thereof on the basis of sex;  
36 provided further, that the foregoing limitation shall not apply to any  
37 restaurant as defined in R.S.33:1-1 or place where alcoholic  
38 beverages are served.

39 (2) Notwithstanding the definition of "a place of public  
40 accommodation" as set forth in subsection l. of section 5 of  
41 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,  
42 manager, superintendent, agent, or employee of any private club or  
43 association to directly or indirectly refuse, withhold from or deny to  
44 any individual who has been accepted as a club member and has  
45 contracted for or is otherwise entitled to full club membership any  
46 of the accommodations, advantages, facilities or privileges thereof,  
47 or to discriminate against any member in the furnishing thereof on

1 account of the race, creed, color, national origin, ancestry, marital  
2 status, 'civil union status,' 'domestic partnership status, sex, 'gender  
3 identity, or expression,' 'affectional or sexual orientation, disability  
4 or nationality of such person.

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

13 g. For any person, including but not limited to, any owner,  
14 lessee, sublessee, assignee or managing agent of, or other person  
15 having the right of ownership or possession of or the right to sell,  
16 rent, lease, assign, or sublease any real property or part or portion  
17 thereof, or any agent or employee of any of these:

18 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
19 to deny to or withhold from any person or group of persons any real  
20 property or part or portion thereof because of race, creed, color,  
21 national origin, ancestry, marital status, 'civil union status,'  
22 domestic partnership status, sex, 'gender identity or expression,'  
23 affectional or sexual orientation, familial status, disability,  
24 nationality, or source of lawful income used for rental or mortgage  
25 payments;

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

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

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

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

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

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

28 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
29 sale, rental, lease, assignment, or sublease any real property or part  
30 or portion thereof to any person or group of persons or to refuse to  
31 negotiate for the sale, rental, lease, assignment, or sublease of any  
32 real property or part or portion thereof to any person or group of  
33 persons because of race, creed, color, national origin, ancestry,  
34 marital status, 'civil union status.' domestic partnership status,  
35 familial status, sex, 'gender identity or expression.' affectional or  
36 sexual orientation, disability, nationality, or source of lawful  
37 income used for rental or mortgage payments, or to represent that  
38 any real property or portion thereof is not available for inspection,  
39 sale, rental, lease, assignment, or sublease when in fact it is so  
40 available, or otherwise to deny or withhold any real property or any  
41 part or portion of facilities thereof to or from any person or group of  
42 persons because of race, creed, color, national origin, ancestry,  
43 marital status, 'civil union status.' domestic partnership status,  
44 familial status, sex, 'gender identity or expression.' affectional or  
45 sexual orientation, disability or nationality;

46 (2) To discriminate against any person because of race, creed,  
47 color, national origin, ancestry, marital status, 'civil union status.'

1 domestic partnership status, familial status, sex, <sup>1</sup>gender identity or  
2 expression,<sup>1</sup> affectional or sexual orientation, disability, nationality,  
3 or source of lawful income used for rental or mortgage payments in  
4 the terms, conditions or privileges of the sale, rental, lease,  
5 assignment or sublease of any real property or part or portion  
6 thereof or in the furnishing of facilities or services in connection  
7 therewith;

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

34 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
35 to deny to or withhold from any person or group of persons any real  
36 property or part or portion thereof because of the source of any  
37 lawful income received by the person or the source of any lawful  
38 rent payment to be paid for the real property; or

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

46 i. For any person, bank, banking organization, mortgage  
47 company, insurance company or other financial institution, lender

1 or credit institution involved in the making or purchasing of any  
2 loan or extension of credit, for whatever purpose, whether secured  
3 by residential real estate or not, including but not limited to  
4 financial assistance for the purchase, acquisition, construction,  
5 rehabilitation, repair or maintenance of any real property or part or  
6 portion thereof or any agent or employee thereof:

7 (1) To discriminate against any person or group of persons  
8 because of race, creed, color, national origin, ancestry, marital  
9 status, 'civil union status,' domestic partnership status, sex, 'gender  
10 identity or expression,' affectional or sexual orientation, disability,  
11 familial status or nationality, in the granting, withholding,  
12 extending, modifying, renewing, or purchasing, or in the fixing of  
13 the rates, terms, conditions or provisions of any such loan,  
14 extension of credit or financial assistance or purchase thereof or in  
15 the extension of services in connection therewith;

16 (2) To use any form of application for such loan, extension of  
17 credit or financial assistance or to make record or inquiry in  
18 connection with applications for any such loan, extension of credit  
19 or financial assistance which expresses, directly or indirectly, any  
20 limitation, specification or discrimination as to race, creed, color,  
21 national origin, ancestry, marital status, 'civil union status,'  
22 domestic partnership status, sex, 'gender identity or expression,'  
23 affectional or sexual orientation, disability, familial status or  
24 nationality or any intent to make any such limitation, specification  
25 or discrimination; unless otherwise required by law or regulation to  
26 retain or use such information;

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

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

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

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

43 k. For any real estate broker, real estate salesperson or  
44 employee or agent thereof or any other individual, corporation,  
45 partnership, or organization, for the purpose of inducing a  
46 transaction for the sale or rental of real property from which  
47 transaction such person or any of its members may benefit  
48 financially, to represent that a change has occurred or will or may

1 occur in the composition with respect to race, creed, color, national  
2 origin, ancestry, marital status, 'civil union status.' domestic  
3 partnership status, familial status, sex, 'gender identity or  
4 expression.' affectional or sexual orientation, disability, nationality,  
5 or source of lawful income used for rental or mortgage payments of  
6 the owners or occupants in the block, neighborhood or area in  
7 which the real property is located, and to represent, directly or  
8 indirectly, that this change will or may result in undesirable  
9 consequences in the block, neighborhood or area in which the real  
10 property is located, including, but not limited to the lowering of  
11 property values, an increase in criminal or anti-social behavior, or a  
12 decline in the quality of schools or other facilities.

13 l. For any person to refuse to buy from, sell to, lease from or  
14 to, license, contract with, or trade with, provide goods, services or  
15 information to, or otherwise do business with any other person on  
16 the basis of the race, creed, color, national origin, ancestry, age,  
17 sex, 'gender identity or expression.' affectional or sexual  
18 orientation, marital status, 'civil union status.' domestic partnership  
19 status, liability for service in the Armed Forces of the United States,  
20 disability, nationality, or source of lawful income used for rental or  
21 mortgage payments of such other person or of such other person's  
22 spouse, partners, members, stockholders, directors, officers,  
23 managers, superintendents, agents, employees, business associates,  
24 suppliers, or customers. This subsection shall not prohibit refusals  
25 or other actions (1) pertaining to employee-employer collective  
26 bargaining, labor disputes, or unfair labor practices, or (2) made or  
27 taken in connection with a protest of unlawful discrimination or  
28 unlawful employment practices.

29 m. For any person to:

30 (1) Grant or accept any letter of credit or other document which  
31 evidences the transfer of funds or credit, or enter into any contract  
32 for the exchange of goods or services, where the letter of credit,  
33 contract, or other document contains any provisions requiring any  
34 person to discriminate against or to certify that he, she or it has not  
35 dealt with any other person on the basis of the race, creed, color,  
36 national origin, ancestry, age, sex, 'gender identity or expression.'  
37 affectional or sexual orientation, marital status, 'civil union status.'  
38 domestic partnership status, disability, liability for service in the  
39 Armed Forces of the United States, or nationality of such other  
40 person or of such other person's spouse, partners, members,  
41 stockholders, directors, officers, managers, superintendents, agents,  
42 employees, business associates, suppliers, or customers.

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



1       The provisions of this subsection shall not apply to any letter of  
2 credit, contract, or other document which contains any provision  
3 pertaining to employee-employer collective bargaining, a labor  
4 dispute or an unfair labor practice, or made in connection with the  
5 protest of unlawful discrimination or an unlawful employment  
6 practice, if the other provisions of such letter of credit, contract, or  
7 other document do not otherwise violate the provisions of this  
8 subsection.

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

13       (1) Buying from, selling to, leasing from or to, licensing,  
14 contracting with, trading with, providing goods, services, or  
15 information to, or otherwise doing business with any person  
16 because that person does, or agrees or attempts to do, any such act  
17 or any act prohibited by this subsection; or

18       (2) Boycotting, commercially blacklisting or refusing to buy  
19 from, sell to, lease from or to, license, contract with, provide goods,  
20 services or information to, or otherwise do business with any person  
21 because that person has not done or refuses to do any such act or  
22 any act prohibited by this subsection; provided that this subsection  
23 shall not prohibit refusals or other actions either pertaining to  
24 employee-employer collective bargaining, labor disputes, or unfair  
25 labor practices, or made or taken in connection with a protest of  
26 unlawful discrimination or unlawful employment practices.

27       o. For any multiple listing service, real estate brokers'  
28 organization or other service, organization or facility related to the  
29 business of selling or renting dwellings to deny any person access  
30 to or membership or participation in such organization, or to  
31 discriminate against such person in the terms or conditions of such  
32 access, membership, or participation, on account of race, creed,  
33 color, national origin, ancestry, age, marital status, 'civil union  
34 status,' domestic partnership status, familial status, sex, 'gender  
35 identity or expression,' affectional or sexual orientation, disability  
36 or nationality.

37       p. 'Nothing in the provisions of this section shall affect the  
38 ability of an employer to require employees to adhere to reasonable  
39 workplace appearance, grooming and dress standards not precluded  
40 by other provisions of State or federal law, except that an employer  
41 shall allow an employee to appear, groom and dress consistent with  
42 the employee's gender identity or expression.

43       q. '(1) For any employer'[, employee or an agent thereof,]' to  
44 impose upon a person as a condition of obtaining or retaining  
45 employment, including opportunities for promotion, advancement  
46 or transfers, any terms or conditions that would require a person to  
47 violate or forego a sincerely held religious practice or religious

1 observance, including but not limited to the observance of any  
2 particular day or days or any portion thereof as a Sabbath or other  
3 holy day in accordance with the requirements of the religion or  
4 religious belief, unless, after engaging in a bona fide effort, the  
5 employer demonstrates that it is unable to reasonably accommodate  
6 the employee's religious observance or practice without undue  
7 hardship on the conduct of the employer's business.  
8 '[Notwithstanding any other provision of law to the contrary, an  
9 employee shall not be entitled to premium wages or premium  
10 benefits for work performed during hours to which those premium  
11 wages or premium benefits would ordinarily be applicable, if the  
12 employee is working during those hours only as an accommodation  
13 to his religious requirements.] <sup>2</sup>Notwithstanding any other  
14 provision of law to the contrary, an employee shall not be entitled  
15 to premium wages or premium benefits for work performed during  
16 hours to which those premium wages or premium benefits would  
17 ordinarily be applicable, if the employee is working during those  
18 hours only as an accommodation to his religious requirements.<sup>2</sup>

19 Nothing in this subsection q. shall be construed as reducing:

20 (a) The number of the hours worked by the employee which are  
21 counted towards the accruing of seniority, pension or other benefits;  
22 or

23 (b) Any premium wages or benefits provided to an employee  
24 pursuant to a collective bargaining agreement.<sup>1</sup>

25 (2) For an employer to refuse to permit an employee to utilize  
26 leave, as provided for in '[paragraph (3) of]' this subsection q.,  
27 '[solely because the leave will be]' which is solely<sup>1</sup> used to  
28 accommodate the employee's sincerely held religious observance or  
29 practice. '[3)]' Except where it would cause an employer to incur  
30 an undue hardship, no person shall be required to remain at his  
31 place of employment during any day or days or portion thereof that,  
32 as a requirement of his religion, he observes as his Sabbath or other  
33 holy day, including a reasonable time prior and subsequent thereto  
34 for travel between his place of employment and his home; provided  
35 that any such absence from work shall, wherever practicable in the  
36 reasonable judgment of the employer, be made up by an equivalent  
37 amount of time and work at some other mutually convenient time,  
38 or shall be charged against any leave with pay ordinarily granted,  
39 other than sick leave, and any such absence not so made up or  
40 charged, may be treated by the employer of that person as leave  
41 taken without pay.

42 '[(4)] (3)' (a) For purposes of this '[section,] subsection q.,'  
43 "undue hardship" means an accommodation requiring  
44 '[significant] unreasonable<sup>1</sup> expense or difficulty, <sup>1</sup>unreasonable<sup>1</sup>  
45 interference with the safe or efficient operation of the workplace or  
46 a violation of a bona fide seniority system <sup>1</sup>or a violation of any  
47 provision of a bona fide collective bargaining agreement<sup>1</sup>.

1       **(b) In determining whether the accommodation constitutes an**  
2 **undue '[economic]' hardship '[a court shall consider], the factors**  
3 **considered shall include'**;

4       **(i) The identifiable cost of the accommodation, including the**  
5 **costs of loss of productivity and of retaining or hiring employees or**  
6 **transferring employees from one facility to another, in relation to**  
7 **the size and operating cost of the employer.**

8       **(ii) The number of individuals who will need the particular**  
9 **accommodation for a sincerely held religious observance or**  
10 **practice.**

11       **(iii) For an employer with multiple facilities, the degree to which**  
12 **the geographic separateness or administrative or fiscal relationship**  
13 **of the facilities will make the accommodation more difficult or**  
14 **expensive.**

15       **'(c)' An accommodation shall be considered to constitute an**  
16 **undue hardship if it will result in the inability of an employee to**  
17 **perform the essential functions of the position in which he or she is**  
18 **employed.**

19       **'(d) (1) The provisions of this subsection q. shall be applicable**  
20 **only to reasonable accommodations of religious observances and**  
21 **shall not supercede any definition of undue hardship or standards**  
22 **for reasonable accommodation of the disabilities of employees.**

23       **(2) This subsection q. shall not apply where the uniform**  
24 **application of terms and conditions of attendance to employees is**  
25 **essential to prevent undue hardship to the employer. The burden of**  
26 **proof regarding the applicability of this subsection (d) shall be upon**  
27 **the employer.'**

28 (cf: P.L.2006, c.103, s.88)

29

30       3. This act shall take effect immediately.