

[Second Reprint]

ASSEMBLY, No. 2648

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED MARCH 5, 2012

Sponsored by:

Assemblyman ANGEL FUENTES

District 5 (Camden and Gloucester)

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District 6 (Burlington and Camden)

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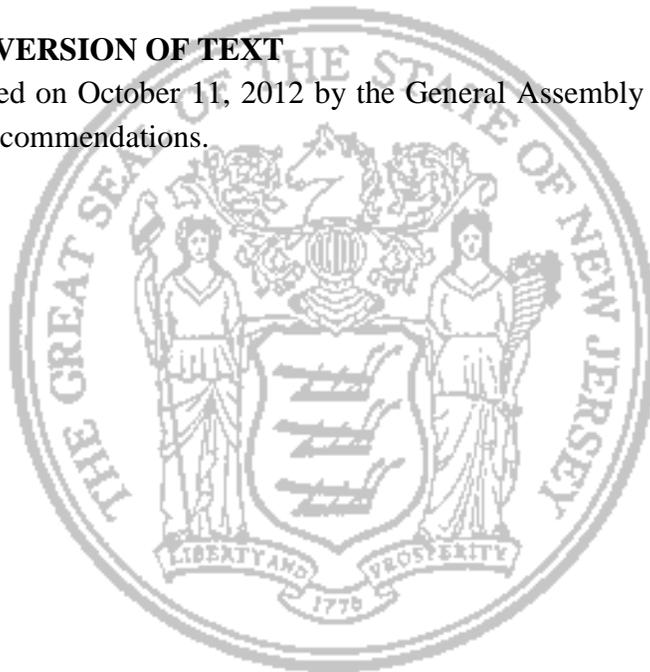
**Assemblyman Johnson, Assemblywomen Mosquera, Watson Coleman,
Senators Weinberg, Greenstein, Codey, Gill and Turner**

SYNOPSIS

Concerns disclosure of certain employment information.

CURRENT VERSION OF TEXT

As amended on October 11, 2012 by the General Assembly pursuant to the Governor's recommendations.



(Sponsorship Updated As Of: 6/22/2012)

1 AN ACT concerning disclosure of certain employment information
2 and amending ²**[P.L.1986, c.105]** P.L.1945, c.169².

3

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

6

7 ²**[1.**Section 3 of P.L.1986, c.105 (C.34:19-3) is amended to read
8 as follows:

9 3. An employer shall not take any retaliatory action against an
10 employee because the employee does any of the following:

11 a. Discloses, or threatens to disclose to a supervisor or to a
12 public body an activity, policy or practice of the employer, or
13 another employer, with whom there is a business relationship, that
14 the employee reasonably believes:

15 (1) is in violation of a law, or a rule or regulation promulgated
16 pursuant to law, including any violation involving deception of, or
17 misrepresentation to, any shareholder, investor, client, patient,
18 customer, employee, former employee, retiree or pensioner of the
19 employer or any governmental entity, or, in the case of an employee
20 who is a licensed or certified health care professional, reasonably
21 believes constitutes improper quality of patient care; or

22 (2) is fraudulent or criminal, including any activity, policy or
23 practice of deception or misrepresentation which the employee
24 reasonably believes may defraud any shareholder, investor, client,
25 patient, customer, employee, former employee, retiree or pensioner
26 of the employer or any governmental entity;

27 b. Provides information to, or testifies before, any public body
28 conducting an investigation, hearing or inquiry into any violation of
29 law, or a rule or regulation promulgated pursuant to law by the
30 employer, or another employer, with whom there is a business
31 relationship, including any violation involving deception of, or
32 misrepresentation to, any shareholder, investor, client, patient,
33 customer, employee, former employee, retiree or pensioner of the
34 employer or any governmental entity, or, in the case of an employee
35 who is a licensed or certified health care professional, provides
36 information to, or testifies before, any public body conducting an
37 investigation, hearing or inquiry into the quality of patient care; or

38 c. Objects to, or refuses to participate in any activity, policy or
39 practice which the employee reasonably believes:

40 (1) is in violation of a law, or a rule or regulation promulgated
41 pursuant to law, including any violation involving deception of, or
42 misrepresentation to, any shareholder, investor, client, patient,
43 customer, employee, former employee, retiree or pensioner of the

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:

¹Assembly ALA committee amendments adopted March 12, 2012.

²Assembly amendments adopted in accordance with Governor's recommendations October 11, 2012.

1 employer or any governmental entity, or, if the employee is a
 2 licensed or certified health care professional, constitutes improper
 3 quality of patient care;

4 (2) is fraudulent or criminal, including any activity, policy or
 5 practice of deception or misrepresentation which the employee
 6 reasonably believes may defraud any shareholder, investor, client,
 7 patient, customer, employee, former employee, retiree or pensioner
 8 of the employer or any governmental entity; or

9 (3) is incompatible with a clear mandate of public policy
 10 concerning the public health, safety or welfare or protection of the
 11 environment; or

12 d. Discloses to any other employee or former employee of the
 13 employer, or any authorized representative of the other employee or
 14 former employee, ¹or requests, whether the request was responded
 15 to or not,¹ information regarding the job title, occupational
 16 category, and rate of compensation, including benefits, of any
 17 employee or former employee, or the gender, race¹, ethnicity,
 18 military status,¹ or ¹【other characteristics】 national origin¹ of the
 19 employee or former employee ¹【for which it is a violation of law to
 20 discriminate against an individual】 , if the disclosure was made in a
 21 reasonable belief on the part of the requesting or disclosing
 22 employee that the purpose of the request or disclosure of the
 23 information was to assist in investigating the possibility of the
 24 occurrence of, or in taking of legal action regarding, potential
 25 discriminatory treatment concerning pay, compensation, bonuses,
 26 other compensation or benefits¹.

27 (cf: P.L.2005, c.329, s.1)】²

28

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
48 to deny to or withhold from any person or group of persons any real

1 property or part or portion thereof because of race, creed, color,
2 national origin, ancestry, marital status, civil union status, domestic
3 partnership status, sex, gender identity or expression, affectional or
4 sexual orientation, familial status, disability, nationality, or source
5 of lawful income used for rental or mortgage payments;

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

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

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

46 (5) To refuse to rent or lease any real property to another person
47 because that person's family includes children under 18 years of
48 age, or to make an agreement, rental or lease of any real property

1 which provides that the agreement, rental or lease shall be rendered
2 null and void upon the birth of a child. This paragraph shall not
3 apply to housing for older persons as defined in subsection mm. of
4 section 5 of P.L.1945, c.169 (C.10:5-5).

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

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

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

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

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

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

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

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

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

41 (2) To use any form of application for such loan, extension of
42 credit or financial assistance or to make record or inquiry in
43 connection with applications for any such loan, extension of credit
44 or financial assistance which expresses, directly or indirectly, any
45 limitation, specification or discrimination as to race, creed, color,
46 national origin, ancestry, marital status, civil union status, domestic
47 partnership status, sex, gender identity or expression, affectional or
48 sexual orientation, disability, familial status or nationality or any

1 intent to make any such limitation, specification or discrimination;
2 unless otherwise required by law or regulation to retain or use such
3 information;

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

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

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

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

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

38 l. For any person to refuse to buy from, sell to, lease from or
39 to, license, contract with, or trade with, provide goods, services or
40 information to, or otherwise do business with any other person on
41 the basis of the race, creed, color, national origin, ancestry, age,
42 sex, gender identity or expression, affectional or sexual orientation,
43 marital status, civil union status, domestic partnership status,
44 liability for service in the Armed Forces of the United States,
45 disability, nationality, or source of lawful income used for rental or
46 mortgage payments of such other person or of such other person's
47 spouse, partners, members, stockholders, directors, officers,
48 managers, superintendents, agents, employees, business associates,

1 suppliers, or customers. This subsection shall not prohibit refusals
2 or other actions (1) pertaining to employee-employer collective
3 bargaining, labor disputes, or unfair labor practices, or (2) made or
4 taken in connection with a protest of unlawful discrimination or
5 unlawful employment practices.

6 m. For any person to:

7 (1) Grant or accept any letter of credit or other document which
8 evidences the transfer of funds or credit, or enter into any contract
9 for the exchange of goods or services, where the letter of credit,
10 contract, or other document contains any provisions requiring any
11 person to discriminate against or to certify that he, she or it has not
12 dealt with any other person on the basis of the race, creed, color,
13 national origin, ancestry, age, sex, gender identity or expression,
14 affectional or sexual orientation, marital status, civil union status,
15 domestic partnership status, disability, liability for service in the
16 Armed Forces of the United States, or nationality of such other
17 person or of such other person's spouse, partners, members,
18 stockholders, directors, officers, managers, superintendents, agents,
19 employees, business associates, suppliers, or customers. (2)

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

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

33 n. For any person to aid, abet, incite, compel, coerce, or induce
34 the doing of any act forbidden by subsections l. and m. of section
35 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
36 do so. Such prohibited conduct shall include, but not be limited to:

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

42 (2) Boycotting, commercially blacklisting or refusing to buy
43 from, sell to, lease from or to, license, contract with, provide goods,
44 services or information to, or otherwise do business with any person
45 because that person has not done or refuses to do any such act or
46 any act prohibited by this subsection; provided that this subsection
47 shall not prohibit refusals or other actions either pertaining to
48 employee-employer collective bargaining, labor disputes, or unfair

1 labor practices, or made or taken in connection with a protest of
2 unlawful discrimination or unlawful employment practices.

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

13 p. Nothing in the provisions of this section shall affect the
14 ability of an employer to require employees to adhere to reasonable
15 workplace appearance, grooming and dress standards not precluded
16 by other provisions of State or federal law, except that an employer
17 shall allow an employee to appear, groom and dress consistent with
18 the employee's gender identity or expression.

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

37 (a) The number of the hours worked by the employee which are
38 counted towards the accruing of seniority, pension or other benefits;
39 or

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

42 (2) For an employer to refuse to permit an employee to utilize
43 leave, as provided for in this subsection q., which is solely used to
44 accommodate the employee's sincerely held religious observance or
45 practice. Except where it would cause an employer to incur an
46 undue hardship, no person shall be required to remain at his place of
47 employment during any day or days or portion thereof that, as a
48 requirement of his religion, he observes as his Sabbath or other holy

1 day, including a reasonable time prior and subsequent thereto for
2 travel between his place of employment and his home; provided that
3 any such absence from work shall, wherever practicable in the
4 reasonable judgment of the employer, be made up by an equivalent
5 amount of time and work at some other mutually convenient time,
6 or shall be charged against any leave with pay ordinarily granted,
7 other than sick leave, and any such absence not so made up or
8 charged, may be treated by the employer of that person as leave
9 taken without pay.

10 (3) (a) For purposes of this subsection q., "undue hardship"
11 means an accommodation requiring unreasonable expense or
12 difficulty, unreasonable interference with the safe or efficient
13 operation of the workplace or a violation of a bona fide seniority
14 system or a violation of any provision of a bona fide collective
15 bargaining agreement.

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

18 (i) The identifiable cost of the accommodation, including the
19 costs of loss of productivity and of retaining or hiring employees or
20 transferring employees from one facility to another, in relation to
21 the size and operating cost of the employer.

22 (ii) The number of individuals who will need the particular
23 accommodation for a sincerely held religious observance or
24 practice.

25 (iii) For an employer with multiple facilities, the degree to which
26 the geographic separateness or administrative or fiscal relationship
27 of the facilities will make the accommodation more difficult or
28 expensive.

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

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

37 (ii) This subsection q. shall not apply where the uniform
38 application of terms and conditions of attendance to employees is
39 essential to prevent undue hardship to the employer. The burden of
40 proof regarding the applicability of this subparagraph (d) shall be
41 upon the employer.

42 r. For any employer to take reprisals against any employee for
43 requesting from any other employee or former employee of the
44 employer information regarding the job title, occupational category,
45 and rate of compensation, including benefits, of any employee or
46 former employee of the employer, or the gender, race, ethnicity,
47 military status, or national origin of any employee or former
48 employee of the employer, regardless of whether the request was

1 responded to, if the purpose of the request for the information was
2 to assist in investigating the possibility of the occurrence of, or in
3 taking of legal action regarding, potential discriminatory treatment
4 concerning pay, compensation, bonuses, other compensation, or
5 benefits. Nothing in this subsection shall be construed to require an
6 employee to disclose such information about the employee herself
7 to any other employee or former employee of the employer or to
8 any authorized representative of the other employee or former
9 employee.²

10 (cf: P.L.2007, c.325. s.2)

11

12 2. This act shall take effect immediately.