

[First Reprint]

ASSEMBLY, No. 5510

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED JUNE 6, 2019

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Co-Sponsored by:

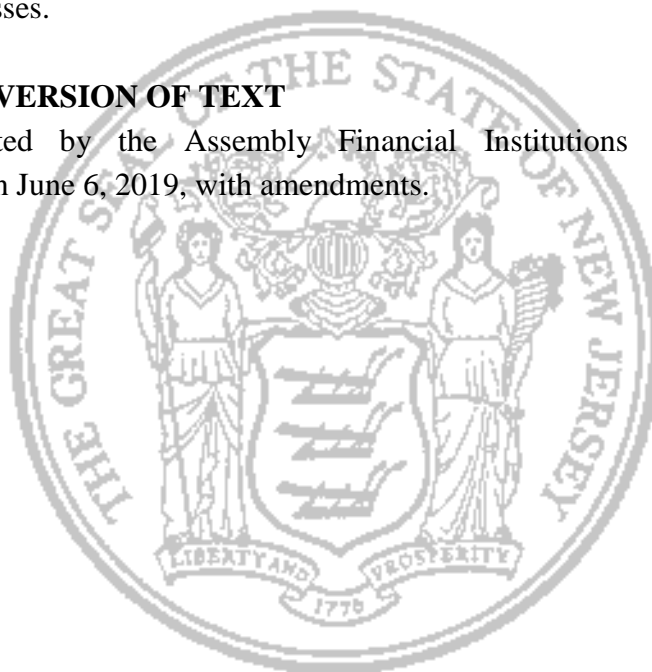
Assemblyman Caputo, Assemblywomen Murphy and Lampitt

SYNOPSIS

Expands “Law Against Discrimination” to apply to health programs and activities and to prohibit discrimination based on association with individuals in protected classes.

CURRENT VERSION OF TEXT

As reported by the Assembly Financial Institutions and Insurance Committee on June 6, 2019, with amendments.



(Sponsorship Updated As Of: 6/11/2019)

1 AN ACT concerning discrimination ¹and supplementing¹ and
2 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 ¹1. (New section) a. It shall be an unlawful discrimination for
8 any entity that operates a health program or activity to:

9 (1) exclude any individual from participation in, deny any
10 individual the benefits of, or otherwise subject any individual to
11 discrimination under any health program or activity on the basis of that
12 individual's race, creed, color, national origin, nationality, ancestry,
13 age, marital status, civil union status, domestic partnership status,
14 affectional or sexual orientation, genetic information, pregnancy
15 status, breastfeeding status, sex, gender identity or expression,
16 disability or atypical hereditary cellular or blood trait of any
17 individual, or liability for service in the armed forces;

18 (2) aid or perpetuate discrimination against any person by
19 providing significant assistance to any entity or person that
20 discriminates on the basis of race, creed, color, national origin,
21 nationality, ancestry, age, marital status, civil union status, domestic
22 partnership status, affectional or sexual orientation, genetic
23 information, pregnancy status, breastfeeding status, sex, gender
24 identity or expression, disability or atypical hereditary cellular or
25 blood trait of any individual, or liability for service in the armed
26 forces;

27 (3) (a) through contractual or other arrangements, utilize criteria
28 or methods of administration that have the effect of subjecting
29 individuals to discrimination on the basis of sex; or

30 (b) make selections when determining the site or location of a
31 facility that have the effect of excluding individuals from, denying
32 them the benefits of, or subjecting them to discrimination under any
33 health program or activity on the basis of sex, or substantially
34 impairing the accomplishments of the program or activity on the basis
35 of sex.

36 Nothing in this paragraph shall be construed to prohibit an entity
37 from operating a sex-specific health program or activity, provided that
38 the entity demonstrates an exceedingly persuasive justification that the
39 sex-specific health program or activity is substantially related to the
40 achievement of an important health-related or scientific objective;

41 (4) treat any individual in a manner inconsistent with that
42 individual's gender identity;

43 (5) fail to ensure that communications with individuals with
44 disabilities, including but not limited to individuals who are deaf or
45 hard of hearing, are as effective as communications with others in 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 AFI committee amendments adopted June 6, 2019.

1 health program or activity and sufficient to ensure those individuals an
2 equal opportunity to participate in, and enjoy the benefits of, the health
3 program or activity, including, but not limited to, providing, free of
4 charge and in a timely manner, language assistance services,
5 interpreter and translation services to assist with oral communications,
6 and qualified translator services to assist with oral and written
7 communications;

8 (6) fail to ensure that, when newly constructing or making
9 alterations to all or any part of a facility, the affected portions of the
10 facility are accessible to individuals with disabilities, consistent with
11 the current applicable standards for accessible design adopted pursuant
12 to the “Americans with Disabilities Act of 1990,” 42 U.S.C. s.12101 et
13 seq.;

14 (7) fail to ensure that any health programs or activities provided
15 through electronic and information technology are accessible to
16 individuals with disabilities, unless doing so would result in undue
17 financial and administrative burdens or a fundamental alteration in the
18 nature of the health program or activity. In the event that compliance
19 would result in an undue financial and administrative burden or a
20 fundamental alteration in the nature of the health program or activity,
21 the entity shall provide information in a format other than an electronic
22 format that would not result in such undue financial and administrative
23 burdens or a fundamental alteration in the nature of the health program
24 or activity, provided that, to the maximum extent possible, the entity
25 shall ensure that individuals with disabilities receive the benefits or
26 services of the health program or activity that are provided through
27 electronic and information technology;

28 (8) fail to make reasonable accommodations and modifications to
29 policies, practices, or procedures when necessary to grant an
30 individual with a disability an equal opportunity to participate in, and
31 enjoy the benefits of, the health program or activity, unless the entity
32 demonstrates that making the accommodations or modifications would
33 be an undue burden or would fundamentally alter the nature of the
34 health program or activity;

35 (9) engage in marketing practices or benefit designs that
36 discriminate on the basis of disability; or

37 (10) fail to provide meaningful access to individuals with limited
38 English proficiency who are eligible to receive the benefits or services
39 of the health program or activity, including, but not limited to,
40 providing, free of charge and in a timely manner, language assistance
41 services, interpreter and translation services to assist with oral
42 communications, and qualified translator services to assist with written
43 communications.

44 b. It shall be an unlawful discrimination for any entity providing
45 or administering a health benefits plan, to discriminate against any
46 individual on the basis of an individual’s race, creed, color, national
47 origin, nationality, ancestry, age, marital status, civil union status,
48 domestic partnership status, affectional or sexual orientation, genetic

1 information, pregnancy status, breastfeeding status, sex, gender
2 identity or expression, disability or atypical hereditary cellular or
3 blood trait of any individual, or liability for service in the armed
4 forces, including by:

5 (1) denying, canceling, limiting, or refusing to issue or renew a
6 health benefits plan, or denying or limiting coverage of a claim, or
7 imposing additional cost sharing or other limitations on coverage, on
8 the basis of an individual's race, creed, color, national origin,
9 nationality, ancestry, age, marital status, civil union status, domestic
10 partnership status, affectional or sexual orientation, genetic
11 information, pregnancy status, breastfeeding status, sex, gender
12 identity or expression, disability or atypical hereditary cellular or
13 blood trait of any individual, or liability for service in the armed
14 forces;

15 (2) having or implementing marketing practices or benefit designs
16 that discriminate on the basis of an individual's race, creed, color,
17 national origin, nationality, ancestry, age, marital status, civil union
18 status, domestic partnership status, affectional or sexual orientation,
19 genetic information, pregnancy status, breastfeeding status, sex,
20 gender identity or expression, disability or atypical hereditary cellular
21 or blood trait of any individual, or liability for service in the armed
22 forces;

23 (3) denying or limiting coverage, denying or limiting coverage of a
24 claim, or imposing additional cost sharing or other limitations or
25 restrictions on coverage for any health services to a transgender
26 individual that are ordinarily or exclusively available to individuals of
27 one sex if such denial, limitation, or other restriction is based on the
28 fact that the individual's sex assigned at birth, gender identity, or
29 gender otherwise recorded is different from the one to which such
30 health services are ordinarily or exclusively available;

31 (4) having or implementing a categorical coverage exclusion or
32 limitation for all health services related to gender transition; or

33 (5) otherwise denying or limiting coverage, denying or limiting
34 coverage of a claim, or imposing additional cost sharing limitations or
35 restrictions on coverage for specific health services related to gender
36 transition if such denial, limitation, or restriction results in
37 discrimination against a transgender individual.

38 For purposes of this subsection, "health benefits plan" means the
39 same as that term is defined in section 1 of P.L.1992, c.161
40 (C.17B:27A-2).

41 Nothing in this subsection shall be construed to determine, or
42 restrict an entity providing or administering a health benefits plan from
43 determining, whether a particular health service is medically necessary
44 or otherwise meets applicable coverage requirements in any individual
45 case.

46 c. Each entity that operates a health program or activity shall take
47 appropriate initial and continuing steps to notify beneficiaries,
48 enrollees, applicants, and members of the public that:

1 (1) the entity does not discriminate on the basis of race, creed,
2 color, national origin, nationality, ancestry, age, marital status, civil
3 union status, domestic partnership status, affectional or sexual
4 orientation, genetic information, pregnancy status, breastfeeding
5 status, sex, gender identity or expression, disability or atypical
6 hereditary cellular or blood trait of any individual, or liability for
7 service in the armed forces; and

8 (2) the entity complies with the other provisions of the "Law
9 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).

10 This notice shall be posted in a conspicuous physical location
11 where the entity interacts with the public and in a conspicuous location
12 on the entity's website, and shall include taglines in the 10 most
13 common non-English languages spoken in the State. The Division on
14 Civil Rights shall make available on its website the content of a
15 sample notice that conveys the information required by this provision,
16 including the taglines in the ten most common non-English languages
17 spoken in the State.¹

18
19 ¹**[1.] 2.**¹ Section 5 of P.L.1945, c.169 (C.10:5-5) is amended
20 to read as follows:

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

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

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

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

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

37 e. "Employer" includes all persons as defined in subsection a.
38 of this section unless otherwise specifically exempt under another
39 section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State,
40 any political or civil subdivision thereof, and all public officers,
41 agencies, boards, or bodies.

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

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

- 1 States, or subject to being inducted into such armed forces through
2 a system of national selective service.
- 3 h. "Division" means the "Division on Civil Rights" created by
4 P.L.1945, c.169 (C.10:5-1 et seq.).
- 5 i. "Attorney General" means the Attorney General of the State
6 of New Jersey or the Attorney General's representative or designee.
- 7 j. "Commission" means the Commission on Civil Rights
8 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 9 k. "Director" means the Director of the Division on Civil
10 Rights.
- 11 l. "A place of public accommodation" shall include, but not be
12 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
13 summer camp, day camp, or resort camp, whether for entertainment
14 of transient guests or accommodation of those seeking health,
15 recreation, or rest; any producer, manufacturer, wholesaler,
16 distributor, retail shop, store, establishment, or concession dealing
17 with goods or services of any kind; any restaurant, eating house, or
18 place where food is sold for consumption on the premises; any
19 place maintained for the sale of ice cream, ice and fruit preparations
20 or their derivatives, soda water or confections, or where any
21 beverages of any kind are retailed for consumption on the premises;
22 any garage, any public conveyance operated on land or water or in
23 the air or any stations and terminals thereof; any bathhouse,
24 boardwalk, or seashore accommodation; any auditorium, meeting
25 place, or hall; any theatre, motion-picture house, music hall, roof
26 garden, skating rink, swimming pool, amusement and recreation
27 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
28 pool parlor, or other place of amusement; any comfort station; any
29 dispensary, clinic, or hospital; any public library; and any
30 kindergarten, primary and secondary school, trade or business
31 school, high school, academy, college and university, or any
32 educational institution under the supervision of the State Board of
33 Education or the Commissioner of Education of the State of New
34 Jersey. Nothing herein contained shall be construed to include or to
35 apply to any institution, bona fide club, or place of accommodation,
36 which is in its nature distinctly private; nor shall anything herein
37 contained apply to any educational facility operated or maintained
38 by a bona fide religious or sectarian institution, and the right of a
39 natural parent or one in loco parentis to direct the education and
40 upbringing of a child under his control is hereby affirmed; nor shall
41 anything herein contained be construed to bar any private secondary
42 or post-secondary school from using in good faith criteria other than
43 race, creed, color, national origin, ancestry, gender identity, or
44 expression or affectional or sexual orientation in the admission of
45 students.
- 46 m. "A publicly assisted housing accommodation" shall include
47 all housing built with public funds or public assistance pursuant to
48 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,

1 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,
2 c.184, and all housing financed in whole or in part by a loan,
3 whether or not secured by a mortgage, the repayment of which is
4 guaranteed or insured by the federal government or any agency
5 thereof.

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

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

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

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

31 r. "Blind person" or "person who is blind" means any
32 individual whose central visual acuity does not exceed 20/200 in the
33 better eye with correcting lens or whose visual acuity is better than
34 20/200 if accompanied by a limit to the field of vision in the better
35 eye to such a degree that its widest diameter subtends an angle of
36 no greater than 20 degrees.

37 s. "Guide dog" means a dog used to assist persons who are
38 deaf, or which is fitted with a special harness so as to be suitable as
39 an aid to the mobility of a person who is blind, and is used by a
40 person who is blind and has satisfactorily completed a specific
41 course of training in the use of such a dog, and has been trained by
42 an organization generally recognized by agencies involved in the
43 rehabilitation of persons with disabilities, including, but not limited
44 to, those persons who are blind or deaf, as reputable and competent
45 to provide dogs with training of this type.

46 t. "Guide or service dog trainer" means any person who is
47 employed by an organization generally recognized by agencies
48 involved in the rehabilitation of persons with disabilities, including,

1 but not limited to, those persons who are blind, have visual
2 impairments, or are deaf or have hearing impairments, as reputable
3 and competent to provide dogs with training, as defined in this
4 section, and who is actually involved in the training process.

5 u. "Housing accommodation" means any publicly assisted
6 housing accommodation or any real property, or portion thereof,
7 which is used or occupied, or is intended, arranged, or designed to
8 be used or occupied, as the home, residence, or sleeping place of
9 one or more persons, but shall not include any single family
10 residence the occupants of which rent, lease, or furnish for
11 compensation not more than one room therein.

12 v. "Public facility" means any place of public accommodation
13 and any street, highway, sidewalk, walkway, public building, and
14 any other place or structure to which the general public is regularly,
15 normally, or customarily permitted or invited.

16 w. "Deaf person" or "person who is deaf" means any person
17 whose hearing is so severely impaired that the person is unable to
18 hear and understand conversational speech through the unaided ear
19 alone, and who must depend primarily on an assistive listening
20 device or visual communication such as writing, lip reading, sign
21 language, and gestures.

22 x. "Atypical hereditary cellular or blood trait" means sickle cell
23 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
24 fibrosis trait.

25 y. "Sickle cell trait" means the condition wherein the major
26 natural hemoglobin components present in the blood of the
27 individual are hemoglobin A (normal) and hemoglobin S (sickle
28 hemoglobin) as defined by standard chemical and physical analytic
29 techniques, including electrophoresis; and the proportion of
30 hemoglobin A is greater than the proportion of hemoglobin S or one
31 natural parent of the individual is shown to have only normal
32 hemoglobin components (hemoglobin A, hemoglobin A2,
33 hemoglobin F) in the normal proportions by standard chemical and
34 physical analytic tests.

35 z. "Hemoglobin C trait" means the condition wherein the major
36 natural hemoglobin components present in the blood of the
37 individual are hemoglobin A (normal) and hemoglobin C as defined
38 by standard chemical and physical analytic techniques, including
39 electrophoresis; and the proportion of hemoglobin A is greater than
40 the proportion of hemoglobin C or one natural parent of the
41 individual is shown to have only normal hemoglobin components
42 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
43 proportions by standard chemical and physical analytic tests.

44 aa. "Thalassemia trait" means the presence of the thalassemia
45 gene which in combination with another similar gene results in the
46 chronic hereditary disease Cooley's anemia.

- 1 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
2 which in combination with another similar gene results in the
3 chronic hereditary disease Tay-Sachs.
- 4 cc. "Cystic fibrosis trait" means the presence of the cystic
5 fibrosis gene which in combination with another similar gene
6 results in the chronic hereditary disease cystic fibrosis.
- 7 dd. "Service dog" means any dog individually trained to the
8 requirements of a person with a disability including, but not limited
9 to minimal protection work, rescue work, pulling a wheelchair or
10 retrieving dropped items. This term shall include a "seizure dog"
11 trained to alert or otherwise assist persons with epilepsy or other
12 seizure disorders.
- 13 ee. "Qualified Medicaid applicant" means an individual who is a
14 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 15 ff. "AIDS" means acquired immune deficiency syndrome as
16 defined by the Centers for Disease Control and Prevention of the
17 United States Public Health Service.
- 18 gg. "HIV infection" means infection with the human
19 immunodeficiency virus or any other related virus identified as a
20 probable causative agent of AIDS.
- 21 hh. "Affectional or sexual orientation" means male or female
22 heterosexuality, homosexuality, or bisexuality by inclination,
23 practice, identity, or expression, having a history thereof or being
24 perceived, presumed, or identified by others as having such an
25 orientation.
- 26 ii. "Heterosexuality" means affectional, emotional, or physical
27 attraction or behavior which is primarily directed towards persons
28 of the other gender.
- 29 jj. "Homosexuality" means affectional, emotional, or physical
30 attraction or behavior which is primarily directed towards persons
31 of the same gender.
- 32 kk. "Bisexuality" means affectional, emotional, or physical
33 attraction or behavior which is directed towards persons of either
34 gender.
- 35 ll. "Familial status" means being the natural parent of a child,
36 the adoptive parent of a child, the resource family parent of a child,
37 having a "parent and child relationship" with a child as defined by
38 State law, or having sole or joint legal or physical custody, care,
39 guardianship, or visitation with a child, or any person who is
40 pregnant or is in the process of securing legal custody of any
41 individual who has not attained the age of 18 years.
- 42 mm. "Housing for older persons" means housing:
- 43 (1) provided under any State program that the Attorney General
44 determines is specifically designed and operated to assist persons
45 who are elderly (as defined in the State program); or provided under
46 any federal program that the United States Department of Housing
47 and Urban Development determines is specifically designed and

1 operated to assist persons who are elderly (as defined in the federal
2 program); or

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

5 (3) intended and operated for occupancy by at least one person
6 55 years of age or older per unit. In determining whether housing
7 qualifies as housing for older persons under this paragraph, the
8 Attorney General shall adopt regulations which require at least the
9 following factors:

10 (a) the existence of significant facilities and services
11 specifically designed to meet the physical or social needs of older
12 persons, or if the provision of such facilities and services is not
13 practicable, that such housing is necessary to provide important
14 housing opportunities for older persons; and

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

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

20 Housing shall not fail to meet the requirements for housing for
21 older persons by reason of: persons residing in such housing as of
22 September 13, 1988 not meeting the age requirements of this
23 subsection, provided that new occupants of such housing meet the
24 age requirements of this subsection; or unoccupied units, provided
25 that such units are reserved for occupancy by persons who meet the
26 age requirements of this subsection.

27 nn. "Genetic characteristic" means any inherited gene or
28 chromosome, or alteration thereof, that is scientifically or medically
29 believed to predispose an individual to a disease, disorder, or
30 syndrome, or to be associated with a statistically significant
31 increased risk of development of a disease, disorder, or syndrome.

32 oo. "Genetic information" means the information about genes,
33 gene products, or inherited characteristics that may derive from an
34 individual or family member.

35 pp. "Genetic test" means a test for determining the presence or
36 absence of an inherited genetic characteristic in an individual,
37 including tests of nucleic acids such as DNA, RNA, and
38 mitochondrial DNA, chromosomes, or proteins in order to identify a
39 predisposing genetic characteristic.

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

42 rr. "Gender identity or expression" means having or being
43 perceived as having a gender related identity or expression whether
44 or not stereotypically associated with a person's assigned sex at
45 birth.

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

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

3 uu. "Premium benefit" means an employment benefit, such as
4 seniority, group life insurance, health insurance, disability
5 insurance, sick leave, annual leave, or an educational or pension
6 benefit that is greater than the employment benefit due the
7 employee for an equivalent period of work performed during the
8 regular work schedule of the employee.

9 vv. "Pregnancy" means pregnancy, childbirth, false pregnancy,
10 termination of pregnancy, or medical conditions related to
11 pregnancy or childbirth, including recovery from childbirth.

12 ww. "Breastfeeding" means breastfeeding, expressing milk for
13 breastfeeding, or medical conditions related to breastfeeding.

14 xx. "Health program or activity" means the provision or
15 administration of health-related services, health-related insurance
16 coverage, or other health-related coverage, and the provision of
17 assistance to individuals in obtaining health-related services or
18 health-related insurance coverage. For an entity principally
19 engaged in providing or administering health services or health
20 insurance coverage or other health coverage, all of its operations are
21 considered part of the health program or activity unless expressly
22 excluded pursuant to P.L.1945, c.169 (C.10:5-1 et seq.). Such
23 entities shall include a health care facility or long-term care facility
24 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a
25 residential or community-based treatment facility, a health care
26 practice operated by a licensed or certified health care practitioner,
27 a health benefits plan or carrier, as those terms are defined in
28 section 2 of P.L.1997, c.192 (C.26:2S-2), or any similar entity, as
29 well as the operations of the State Medicaid and NJ FamilyCare
30 programs.

31 (cf: P.L.2017, c.131, s.8)

32
33 ¹**[2.] 3.**¹ Section 11 of P.L.1945, c.169 (C.10:5-12) is
34 amended to read as follows:

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

37 a. For an employer, because of the race, creed, color, national
38 origin, ancestry, age, marital status, civil union status, domestic
39 partnership status, affectional or sexual orientation, genetic
40 information, pregnancy **[or]** status, breastfeeding status, sex,
41 gender identity or expression, disability or atypical hereditary
42 cellular or blood trait of any individual, or because of the liability
43 for service in the Armed Forces of the United States or the
44 nationality of any individual, or because of the refusal to submit to
45 a genetic test or make available the results of a genetic test to an
46 employer, to refuse to hire or employ or to bar or to discharge or
47 require to retire, unless justified by lawful considerations other than
48 age, from employment such individual or to discriminate against

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

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

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

43 For the purposes of this subsection, an unlawful employment
44 practice occurs, with respect to discrimination in compensation or
45 in the financial terms or conditions of employment, each occasion
46 that an individual is affected by application of a discriminatory
47 compensation decision or other practice, including, but not limited
48 to, each occasion that wages, benefits, or other compensation are

1 paid, resulting in whole or in part from the decision or other
2 practice.

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

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

20 b. For a labor organization, because of the race, creed, color,
21 national origin, ancestry, age, marital status, civil union status,
22 domestic partnership status, affectional or sexual orientation,
23 gender identity or expression, disability, pregnancy **[or]** status,
24 breastfeeding status, or sex of any individual, or because of the
25 liability for service in the Armed Forces of the United States or
26 nationality of any individual, to exclude or to expel from its
27 membership such individual or to discriminate in any way against
28 any of its members, against any applicant for, or individual included
29 in, any apprentice or other training program or against any
30 employer or any individual employed by an employer; provided,
31 however, that nothing herein contained shall be construed to bar a
32 labor organization from excluding from its apprentice or other
33 training programs any person on the basis of sex in those certain
34 circumstances where sex is a bona fide occupational qualification
35 reasonably necessary to the normal operation of the particular
36 apprentice or other training program.

37 c. For any employer or employment agency to print or circulate
38 or cause to be printed or circulated any statement, advertisement or
39 publication, or to use any form of application for employment, or to
40 make an inquiry in connection with prospective employment, which
41 expresses, directly or indirectly, any limitation, specification or
42 discrimination as to race, creed, color, national origin, ancestry,
43 age, marital status, civil union status, domestic partnership status,
44 affectional or sexual orientation, gender identity or expression,
45 disability, nationality, pregnancy **[or]** status, breastfeeding status,
46 or sex or liability of any applicant for employment for service in the
47 Armed Forces of the United States, or any intent to make any such

1 limitation, specification or discrimination, unless based upon a bona
2 fide occupational qualification.

3 d. For any person to take reprisals against any person because
4 that person has opposed any practices or acts forbidden under this
5 act or because that person has sought legal advice regarding rights
6 under this act, shared relevant information with legal counsel,
7 shared information with a governmental entity, or filed a complaint,
8 testified or assisted in any proceeding under this act or to coerce,
9 intimidate, threaten or interfere with any person in the exercise or
10 enjoyment of, or on account of that person having aided or
11 encouraged any other person in the exercise or enjoyment of, any
12 right granted or protected by this act.

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

16 f. (1) For any owner, lessee, proprietor, manager,
17 superintendent, agent, or employee of any place of public
18 accommodation directly or indirectly to refuse, withhold from or
19 deny to any person any of the accommodations, advantages,
20 facilities or privileges thereof, or to discriminate against any person
21 in the furnishing thereof, or directly or indirectly to publish,
22 circulate, issue, display, post or mail any written or printed
23 communication, notice, or advertisement to the effect that any of
24 the accommodations, advantages, facilities, or privileges of any
25 such place will be refused, withheld from, or denied to any person
26 on account of the race, creed, color, national origin, ancestry,
27 marital status, civil union status, domestic partnership status,
28 pregnancy **[or]** status, breastfeeding status, sex, gender identity or
29 expression, affectional or sexual orientation, disability, liability for
30 service in the Armed Forces of the United States or nationality of
31 such person, or that the patronage or custom thereat of any person
32 of any particular race, creed, color, national origin, ancestry, marital
33 status, civil union status, domestic partnership status, pregnancy
34 **[or]** status, breastfeeding status, sex, gender identity or expression,
35 affectional or sexual orientation, disability, liability for service in
36 the Armed Forces of the United States or nationality is unwelcome,
37 objectionable or not acceptable, desired or solicited, and the
38 production of any such written or printed communication, notice or
39 advertisement, purporting to relate to any such place and to be made
40 by any owner, lessee, proprietor, superintendent or manager thereof,
41 shall be presumptive evidence in any action that the same was
42 authorized by such person; provided, however, that nothing
43 contained herein shall be construed to bar any place of public
44 accommodation which is in its nature reasonably restricted
45 exclusively to individuals of one sex, and which shall include but
46 not be limited to any summer camp, day camp, or resort camp,
47 bathhouse, dressing room, swimming pool, gymnasium, comfort
48 station, dispensary, clinic or hospital, or school or educational

1 institution which is restricted exclusively to individuals of one sex,
2 provided individuals shall be admitted based on their gender
3 identity or expression, from refusing, withholding from or denying
4 to any individual of the opposite sex any of the accommodations,
5 advantages, facilities or privileges thereof on the basis of sex;
6 provided further, that the foregoing limitation shall not apply to any
7 restaurant as defined in R.S.33:1-1 or place where alcoholic
8 beverages are served.

9 (2) Notwithstanding the definition of "a place of public
10 accommodation" as set forth in subsection l. of section 5 of
11 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,
12 manager, superintendent, agent, or employee of any private club or
13 association to directly or indirectly refuse, withhold from or deny to
14 any individual who has been accepted as a club member and has
15 contracted for or is otherwise entitled to full club membership any
16 of the accommodations, advantages, facilities or privileges thereof,
17 or to discriminate against any member in the furnishing thereof on
18 account of the race, creed, color, national origin, ancestry, marital
19 status, civil union status, domestic partnership status, pregnancy
20 **[or]** status, breastfeeding status, sex, gender identity, or expression,
21 affectional or sexual orientation, disability, liability for service in
22 the Armed Forces of the United States or nationality of such person.

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

31 g. For any person, including but not limited to, any owner,
32 lessee, sublessee, assignee or managing agent of, or other person
33 having the right of ownership or possession of or the right to sell,
34 rent, lease, assign, or sublease any real property or part or portion
35 thereof, or any agent or employee of any of these:

36 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
37 to deny to or withhold from any person or group of persons any real
38 property or part or portion thereof because of race, creed, color,
39 national origin, ancestry, marital status, civil union status, domestic
40 partnership status, pregnancy **[or]** status, breastfeeding status, sex,
41 gender identity or expression, affectional or sexual orientation,
42 familial status, disability, liability for service in the Armed Forces
43 of the United States, nationality, or source of lawful income used
44 for rental or mortgage payments;

45 (2) To discriminate against any person or group of persons
46 because of race, creed, color, national origin, ancestry, marital
47 status, civil union status, domestic partnership status, pregnancy
48 **[or]** status, breastfeeding status, sex, gender identity or expression,

1 affectional or sexual orientation, familial status, disability, liability
2 for service in the Armed Forces of the United States, nationality or
3 source of lawful income used for rental or mortgage payments in
4 the terms, conditions or privileges of the sale, rental or lease of any
5 real property or part or portion thereof or in the furnishing of
6 facilities or services in connection therewith;

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

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

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

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

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, pregnancy **[or]** status, breastfeeding status, sex, gender identity or expression, affectional or sexual orientation, liability for service in the Armed Forces of the United States, disability, nationality, or source of lawful income used for rental or mortgage payments, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, pregnancy **[or]** status, breastfeeding status, sex, gender identity or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States, or nationality;

(2) To discriminate against any person because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, pregnancy **[or]** status, breastfeeding status, sex, gender identity or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States, nationality, or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, pregnancy **[or]** status, breastfeeding status, sex, gender identity or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States, nationality, or source of lawful income used for rental or mortgage payments or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign,

1 form of application, record, or inquiry purporting to be made by any
2 such person shall be presumptive evidence in any action that the
3 same was authorized by such person; provided, however, that
4 nothing contained in this subsection h., shall be construed to bar
5 any person from refusing to sell, rent, lease, assign or sublease or
6 from advertising or recording a qualification as to sex for any room,
7 apartment, flat in a dwelling or residential facility which is planned
8 exclusively for and occupied exclusively by individuals of one sex
9 to any individual of the opposite sex on the basis of sex, provided
10 individuals shall be qualified based on their gender identity or
11 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, pregnancy
35 **【or】** status, breastfeeding status, sex, gender identity or expression,
36 affectional or sexual orientation, disability, liability for service in
37 the Armed Forces of the United States, familial status or nationality,
38 in the granting, withholding, extending, modifying, renewing, or
39 purchasing, or in the fixing of the rates, terms, conditions or
40 provisions of any such loan, extension of credit or financial
41 assistance or purchase thereof or in the extension of services in
42 connection therewith;

43 (2) To use any form of application for such loan, extension of
44 credit or financial assistance or to make record or inquiry in
45 connection with applications for any such loan, extension of credit
46 or financial assistance which expresses, directly or indirectly, any
47 limitation, specification or discrimination as to race, creed, color,
48 national origin, ancestry, marital status, civil union status, domestic

1 partnership status, pregnancy **【or】** status, breastfeeding status, sex,
2 gender identity or expression, affectional or sexual orientation,
3 disability, liability for service in the Armed Forces of the United
4 States, familial status or nationality or any intent to make any such
5 limitation, specification or discrimination; unless otherwise
6 required by law or regulation to retain or use such information;

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

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

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

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

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

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

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

12 m. For any person to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 u. ¹For any entity that operates a health program or activity
12 to:

13 (1) exclude participation in, deny the benefits of, or otherwise
14 subject to discrimination under any health program or activity on
15 the basis of an individual's race, creed, color, national origin,
16 nationality, ancestry, age, marital status, civil union status, domestic
17 partnership status, affectional or sexual orientation, genetic
18 information, pregnancy status, breastfeeding status, sex, gender
19 identity or expression, disability or atypical hereditary cellular or
20 blood trait of any individual, or liability for service in the armed
21 forces;

22 (2) aid or perpetuate discrimination against any person by
23 providing significant assistance to any entity or person that
24 discriminates on the basis of race, creed, color, national origin,
25 nationality, ancestry, age, marital status, civil union status, domestic
26 partnership status, affectional or sexual orientation, genetic
27 information, pregnancy status, breastfeeding status, sex, gender
28 identity or expression, disability or atypical hereditary cellular or
29 blood trait of any individual, or liability for service in the armed
30 forces;

31 (3) (a) through contractual or other arrangements, utilize criteria
32 or methods of administration that have the effect of subjecting
33 individuals to discrimination on the basis of sex; or

34 (b) make selections when determining the site or location of a
35 facility that have the effect of excluding individuals from, denying
36 them the benefits of, or subjecting them to discrimination under any
37 health program or activity on the basis of sex, or substantially
38 impairing the accomplishments of the program or activity on the
39 basis of sex.

40 Nothing in this paragraph shall be construed to prohibit an entity
41 from operating a sex-specific health program or activity, provided
42 that the entity demonstrates an exceedingly persuasive justification
43 that the sex-specific health program or activity is substantially
44 related to the achievement of an important health-related to
45 scientific objective;

46 (4) treat any individual in a manner inconsistent with that
47 individual's gender identity;

1 (5) fail to ensure that communications with individuals with
2 disabilities are as effective as communications with others in the
3 health program or activity, which may include failure to provide
4 appropriate auxiliary aids and services to individuals with impaired
5 sensory, manual, or speaking skills, when such aids and services are
6 necessary to ensure the individual equal opportunity to benefit from
7 the service in question;

8 (6) fail to ensure that, when newly constructing or making
9 alterations to all or any part of a facility, the affected portions of the
10 facility are accessible to individuals with disabilities, consistent
11 with the current applicable standards for accessible design adopted
12 pursuant to the “Americans with Disabilities Act of 1990,” 42
13 U.S.C. s.12101 et seq.;

14 (7) fail to ensure that any health programs or activities provided
15 through electronic and information technology are accessible to
16 individuals with disabilities, unless doing so would result in undue
17 financial and administrative burdens or a fundamental alteration in
18 the nature of the health program or activity. In the event that
19 compliance would result in an undue financial and administrative
20 burden or a fundamental alteration in the nature of the health
21 program or activity, the entity shall provide information in a format
22 other than an electronic format that would not result in such undue
23 financial and administrative burdens or a fundamental alteration in
24 the nature of the health program or activity, provided that, to the
25 maximum extent possible, the entity shall ensure that individuals
26 with disabilities receive the benefits or services of the health
27 program or activity that are provided through electronic and
28 information technology;

29 (8) fail to make reasonable modifications to policies, practices,
30 or procedures when necessary to avoid discrimination on the basis
31 of disability, unless the entity can demonstrate that making the
32 modifications would fundamentally alter the nature of the health
33 program or activity;

34 (9) engage in marketing practices or benefit designs that
35 discriminate on the basis of disability;

36 (10) fail to provide meaningful access to individuals with limited
37 English proficiency who are eligible to receive the benefits or
38 services of the health program or activity, including, but not limited
39 to, providing, free of charge, language assistance services,
40 interpreter and translation services to assist with oral
41 communications, and qualified translator services to assist with
42 written communications, subject to the following requirements:

43 (a) in the event that the entity provides video remote
44 interpreting services, the entity shall ensure the health program or
45 activity: uses real-time, full-motion video and audio over a
46 dedicated high-speed, wide-bandwidth video connection or wireless
47 connection that produces high-quality video images without lags,
48 choppy, blurry, or grainy images, or irregular pauses in

1 communication; provides a sharply-delineated image that is large
2 enough to display the interpreter's face and the participating
3 individual's face, regardless of the individual's body position;
4 provides a clear, audible transmission of voices; and provides
5 adequate training to users of the technology and other involved
6 individuals to ensure they are able to quickly and efficiently set up
7 and operate the video remote interpreting;

8 (b) in evaluating whether an entity is in compliance with the
9 requirements of this paragraph, the division shall: evaluate, and
10 give substantial weight to, the nature and importance to the
11 individual with limited English proficiency of the health program or
12 activity and the particular communication at issue; and take into
13 account other relevant factors, including whether the entity has
14 developed and implemented an effective written language access
15 plan appropriate to its particular circumstances;

16 (c) nothing in this paragraph shall be construed to authorize any
17 entity to require an individual to: provide the individual's own
18 interpreter; rely on an accompanying adult or minor child to provide
19 interpretation services, except when expressly requested by the
20 individual with limited English proficiency or in an emergency
21 involving imminent threat to the safety or welfare of the individual
22 or the public when there is no qualified interpreter for the individual
23 who is immediately available; or rely on staff other than qualified
24 bilingual or multilingual staff to provide interpretation services for
25 the individual; and

26 (d) nothing in this paragraph shall be construed to require any
27 individual with limited English proficiency to accept language
28 assistance services; or

29 (11) in the case of an entity providing or administering a health
30 benefits plan, to discriminate against any individual on the basis of
31 an individual's race, creed, color, national origin, nationality,
32 ancestry, age, marital status, civil union status, domestic partnership
33 status, affectional or sexual orientation, genetic information,
34 pregnancy status, breastfeeding status, sex, gender identity or
35 expression, disability or atypical hereditary cellular or blood trait of
36 any individual, or liability for service in the armed forces,
37 including:

38 (a) denying, canceling, limiting, or refusing to issue or renew a
39 health benefits plan, or denying or limiting coverage of a claim, or
40 imposing additional cost sharing or other limitations on coverage,
41 on the basis of an individual's race, creed, color, national origin,
42 nationality, ancestry, age, marital status, civil union status, domestic
43 partnership status, affectional or sexual orientation, genetic
44 information, pregnancy status, breastfeeding status, sex, gender
45 identity or expression, disability or atypical hereditary cellular or
46 blood trait of any individual, or liability for service in the armed
47 forces;

1 **(b) having or implementing marketing practices or benefit**
2 **designs that discriminate on the basis of an individual's race, creed,**
3 **color, national origin, nationality, ancestry, age, marital status, civil**
4 **union status, domestic partnership status, affectional or sexual**
5 **orientation, genetic information, pregnancy status, breastfeeding**
6 **status, sex, gender identity or expression, disability or atypical**
7 **hereditary cellular or blood trait of any individual, or liability for**
8 **service in the armed forces;**

9 **(c) denying or limiting coverage, denying or limiting coverage**
10 **of a claim, or imposing additional cost sharing or other limitations**
11 **or restrictions on coverage for any health services to a transgender**
12 **individual that are ordinarily or exclusively available to individuals**
13 **of one sex if such denial, limitation, or other restriction is based on**
14 **the fact that the individual's sex assigned at birth, gender identity,**
15 **or gender otherwise recorded is different from the one to which**
16 **such health services are ordinarily or exclusively available;**

17 **(d) having or implementing a categorical coverage exclusion or**
18 **limitation for all health services related to gender transition; or**

19 **(e) otherwise denying or limiting coverage, denying or limiting**
20 **coverage of a claim, or imposing additional cost sharing limitations**
21 **or restrictions on coverage for specific health services related to**
22 **gender transition if such denial, limitation, or restriction results in**
23 **discrimination against a transgender individual.**

24 **Nothing in paragraph (11) of this subsection shall be construed**
25 **to determine, or restrict an entity providing or administering a**
26 **health benefits plan from determining, whether a particular health**
27 **service is medically necessary or otherwise meets applicable**
28 **coverage requirements in any individual case.**

29 **Each entity that operates a health program or activity shall take**
30 **appropriate steps to notify beneficiaries, enrollees, applicants, and**
31 **members of the public: that the entity does not discriminate on the**
32 **basis of race, creed, color, national origin, nationality, ancestry,**
33 **age, marital status, civil union status, domestic partnership status,**
34 **affectional or sexual orientation, genetic information, pregnancy**
35 **status, breastfeeding status, sex, gender identity or expression,**
36 **disability or atypical hereditary cellular or blood trait of any**
37 **individual, or liability for service in the armed forces; that the entity**
38 **provides appropriate auxiliary aids and services, including qualified**
39 **interpreters for individuals with disabilities and information in**
40 **alternate formats, free of charge and in a timely manner, when such**
41 **aids and services are necessary to ensure an equal opportunity to**
42 **participate to individuals with disabilities; that the entity provides**
43 **language assistance services, including translated documents and**
44 **oral interpretation, free of charge and in a timely manner, when**
45 **such services are necessary to provide meaningful access to**
46 **individuals with limited English proficiency; how to obtain the aids**
47 **and services described in the notice; and how to file a**
48 **discrimination complaint with the division. This notice shall be**

1 provided in a form and manner as shall be prescribed by the director
2 by regulation, and shall include, at a minimum, posting the notice in
3 a conspicuous location and by preparing and posting taglines in the
4 15 most common non-English languages spoken in the State.

5 As used in this subsection:

6 “Auxiliary aids and services” includes the use of:

7 (i) qualified interpreters to provide on-site or remote video
8 interpreting services; note takers; real-time computer-aided
9 transcription services; written materials; exchange of written notes;
10 telephone handset amplifiers; assistive listening devices; assistive
11 listening systems; telephones compatible with hearing aids; closed
12 caption decoders; open and closed captioning, including real-time
13 captioning; voice, text, and video-based telecommunications
14 products and systems, text telephones, videophones, captioned
15 telephones, and any other equally-effective telecommunications
16 device; videotext displays; accessible electronic and information
17 technology; and any other effective methods of making aurally-
18 delivered information available to individuals who are deaf or hard
19 of hearing;

20 (ii) qualified readers; taped texts; audio recordings; Braille
21 materials and displays; screen reader software; magnification
22 software; optical readers; secondary auditory programs; large print
23 materials; accessible electronic and information technology; or
24 other effective methods of making visually-delivered information
25 available to individuals who are blind or who have low vision;

26 (iii) acquisition or modification of equipment and devices; and

27 (iv) other similar services and actions.

28 “Language assistance services” means, but is not limited to: oral
29 language assistance for an individual with limited English
30 proficiency, including interpretation in non-English languages
31 provided in-person or remotely by a qualified interpreter; the use of
32 qualified bilingual or multilingual staff to communicate directly
33 with individuals with limited English proficiency; written
34 translation, performed by a qualified translator, of written content
35 into language other than English; and taglines.

36 “Qualified bilingual or multilingual staff” means a member of
37 the entity’s staff who is designated by the entity to provide oral
38 language assistance as part of the individual’s current, assigned job
39 responsibilities, and who demonstrates to the entity that the staff
40 member: is proficient in speaking and understanding both spoken
41 English and at least one other spoken language, including any
42 necessary specialized vocabulary, terminology, and phraseology;
43 and is able to effectively, accurately, and impartially communicate
44 directly with individuals with limited English proficiency in their
45 primary languages.

46 “Qualified interpreter for an individual with a disability” means
47 an individual who, through a remote video interpreting service or an
48 on-site appearance, adheres to generally-accepted interpreter ethics

1 principles, including client confidentiality, and is able to interpret
2 effectively, accurately, and impartially, both receptively and
3 expressively, using any necessary specialized vocabulary,
4 terminology, and phraseology. Qualified interpreters may include
5 sign language interpreters, oral transliterators, and cued language
6 translitterators.

7 “Qualified interpreter for an individual with limited English
8 proficiency” means an individual who, through a remote video
9 interpreting service or an on-site appearance, adheres to generally-
10 accepted interpreter ethics principles, including client
11 confidentiality, has demonstrated proficiency in speaking and
12 understanding both spoken English and at least one other language,
13 and is able to interpret effectively, accurately, and impartially, both
14 receptively and expressively, using any necessary specialized
15 vocabulary, terminology, and phraseology.

16 “Qualified translator” means a translator who adheres to
17 generally-accepted translator ethics principles, including client
18 confidentiality, has demonstrated proficiency in writing and
19 understanding both written English and at least one other written
20 non-English language, and is able to interpret effectively,
21 accurately, and impartially, both receptively and expressively, to
22 and from such language into English, using any necessary
23 specialized vocabulary, terminology, and phraseology.

24 “Taglines” means short statements written in non-English
25 languages that indicate the availability of language assistance
26 services free of charge.

27 v.】¹ To engage in any unlawful employment practice or
28 unlawful discrimination, as set forth in ¹【subsections a. through u.
29 of this section】 the “Law Against Discrimination,” P.L.1945, c.169
30 (C.10:5-1 et seq.)¹ , against an individual on the basis of the race,
31 creed, color, national origin, nationality, ancestry, age, marital
32 status, civil union status, domestic partnership status, affectional or
33 sexual orientation, genetic information, pregnancy status,
34 breastfeeding status, sex, gender identity or expression, disability or
35 atypical hereditary cellular or blood trait of any individual, or
36 liability for service in the armed forces of another individual with
37 whom the individual is known or believed to have a relationship or
38 association.

39 (cf: P.L.2018, c.9, s.2)

40

41 ¹【3.】 4.¹ This act shall take effect 180 days after the date of
42 enactment.