

[Fourth Reprint]

**ASSEMBLY, No. 1919**

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

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

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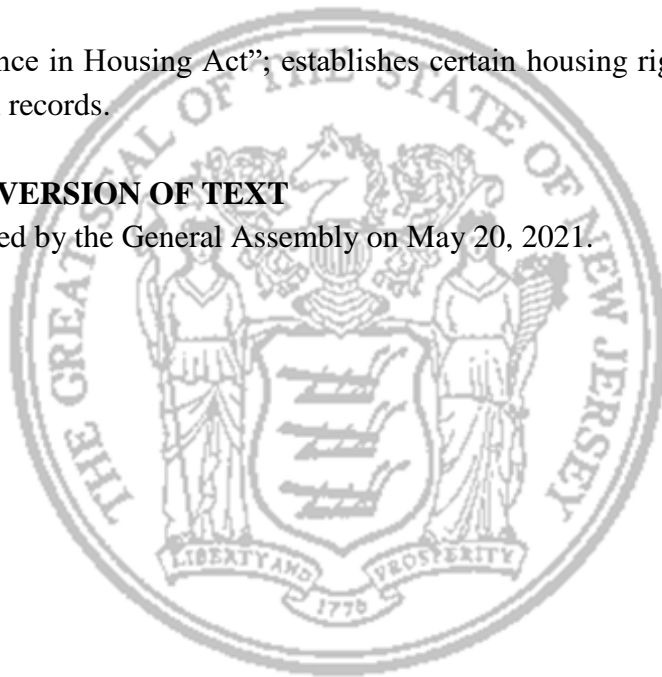
**Assemblywomen Carter, Timberlake, Assemblyman Spearman,  
Assemblywoman Jasey, Assemblymen Zwicker, McClellan,  
Assemblywomen Chaparro, Vainieri Huttle, Assemblyman Stanley,  
Assemblywoman Speight and Assemblyman Freiman**

**SYNOPSIS**

“Fair Chance in Housing Act”; establishes certain housing rights of persons with criminal records.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on May 20, 2021.



(Sponsorship Updated As Of: 6/3/2021)

1 AN ACT concerning the housing rights of <sup>3</sup>certain<sup>3</sup> persons with  
2 criminal records and supplementing <sup>1</sup>[P.L.1945, c.169 (C.10:5-1  
3 et seq.)] <sup>3</sup>[P.L.1975, c.310 (C.46:8-43 et seq.)<sup>1</sup>] chapter 8 of  
4 Title 46 of the Revised Statutes<sup>3</sup>.

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

8  
9 1. This act shall be known and may be cited as the “Fair Chance  
10 in Housing Act.”

11  
12 <sup>3</sup>2. The Legislature finds and declares that:

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

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

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

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

29 e. It is, therefore, necessary and in the public interest for the  
30 Legislature to enact legislation for the purpose of establishing certain  
31 housing rights of persons with criminal records.<sup>3</sup>

32  
33 <sup>3</sup>[2.] <sup>3</sup>3. <sup>3</sup>As used in this act:

34 "Applicant" means any person considered for, who requests to be  
35 considered for, or who requests to be considered for tenancy within a  
36 rental dwelling unit.

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

41 “Criminal record” means information <sup>3</sup>about an individual<sup>3</sup>  
42 collected by criminal justice agencies <sup>3</sup>[on individuals]<sup>3</sup> consisting of  
43 identifiable descriptions and notations of arrests, detentions,  
44 indictments, <sup>3</sup>criminal complaints,<sup>3</sup> or other formal criminal charges,

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHO committee amendments adopted December 7, 2020.

<sup>2</sup>Assembly AAP committee amendments adopted December 14, 2020.

<sup>3</sup>Assembly AHO committee amendments adopted May 5, 2021.

<sup>4</sup>Assembly floor amendments adopted May 20, 2021.

1 and any disposition arising therefrom, including acquittal, sentencing,  
2 correctional supervision, release or conviction, including, but not  
3 limited to, any sentence arising from a verdict or plea of guilty or nolo  
4 contendere, including a sentence of incarceration, a suspended  
5 sentence, a sentence of probation, or a sentence of conditional  
6 discharge.

7 <sup>3</sup>“Director” means the Director of the Division on Civil Rights.

8 “Division” means the Division on Civil Rights in the Department  
9 of Law and Public Safety.<sup>3</sup>

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

14 “Pending criminal accusation” means an existing accusation that  
15 an individual has committed a crime, lodged by a law enforcement  
16 agency through an indictment, information, complaint, or other formal  
17 charge.

18 “Rental dwelling unit” means a dwelling unit offered for rent by a  
19 housing provider for residential purposes, other than a dwelling unit in  
20 an owner-occupied premises of not more than <sup>3</sup>~~three~~ four<sup>3</sup> dwelling  
21 units.

22  
23 <sup>3</sup>~~3.~~ 4.<sup>3</sup> a. (1) A housing provider shall not require an applicant  
24 to complete any housing application that includes any inquiries  
25 regarding an applicant’s criminal record prior to the provision of a  
26 conditional offer <sup>3</sup>, except that a housing provider may consider  
27 whether an applicant has ever been convicted of drug-related criminal  
28 activity for the manufacture or production of methamphetamine on the  
29 premises of federally assisted housing, and whether the applicant is  
30 subject to a lifetime registration requirement under a State sex offender  
31 registration program<sup>3</sup>.

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

35 <sup>1</sup>~~[(3)~~ An applicant may provide evidence to the housing  
36 provider demonstrating inaccuracies within the applicant's criminal  
37 record or evidence of rehabilitation or other mitigating factors.]<sup>1</sup>

38 <sup>3</sup>~~(3)~~ An applicant may provide evidence to the housing provider  
39 demonstrating inaccuracies within the applicant's criminal record or  
40 evidence of rehabilitation or other mitigating factors.<sup>3</sup>

41 b. <sup>3</sup>~~Notwithstanding~~ the provisions of subsection a. of this  
42 section, if an applicant discloses any information regarding the  
43 applicant’s criminal record, by voluntary oral or written disclosure,  
44 prior to the conditional offer, the housing provider may make  
45 inquiries regarding the applicant’s criminal record prior to making  
46 the conditional offer.

- 1 c.]<sup>3</sup> Prior to accepting any application fee, a housing provider  
2 shall disclose in writing to the applicant:
- 3 (1) Whether the eligibility criteria of the housing provider  
4 include the review and consideration of criminal history; and
- 5 (2) A statement that the applicant <sup>1</sup>[], pursuant to subsection a.  
6 of this section,] <sup>3</sup>, pursuant to subsection a. of this section,<sup>3</sup> may  
7 provide evidence demonstrating inaccuracies within the applicant's  
8 criminal record or evidence of rehabilitation or other mitigating  
9 factors.
- 10 <sup>3</sup>[d.]<sup>3</sup> <sup>1</sup>[After the issuance of a conditional offer to an  
11 applicant, a housing provider may only consider a criminal record  
12 in the applicant's history that:
- 13 (1) has occurred within the 10 years immediately preceding the  
14 issuance of the conditional offer; and
- 15 (2) consists of a pending criminal accusation or a criminal  
16 conviction that, pursuant to subsection b. of N.J.S.2C:52-2, is not  
17 eligible for expungement.
- 18 e. (1) A housing provider may withdraw a conditional offer  
19 based on an applicant's criminal record only if the housing provider  
20 determines, on balance, that the withdrawal achieves a substantial,  
21 legitimate, nondiscriminatory interest.
- 22 (2) The housing provider's determination of a nondiscriminatory  
23 interest shall be reasonable in light of the following factors:
- 24 (a) The nature and severity of the criminal offense;
- 25 (b) The age of the applicant at the time of the occurrence of the  
26 criminal offense;
- 27 (c) The time which has elapsed since the occurrence of the  
28 criminal offense;
- 29 (d) Any information produced by the applicant, or produced on  
30 the applicant's behalf, in regard to the applicant's rehabilitation and  
31 good conduct since the occurrence of the criminal offense;
- 32 (e) The degree to which the criminal offense, if it reoccurred,  
33 would negatively impact the safety of the housing provider's other  
34 tenants or property; and
- 35 (f) Whether the criminal offense occurred on or was connected  
36 to property that was rented or leased by the applicant.
- 37 f. (1) If a housing provider withdraws a conditional offer, the  
38 housing provider shall provide the applicant with written  
39 notification that includes, with specificity, the reason or reasons for  
40 the withdrawal of the conditional offer and a notice that advises the  
41 applicant of the applicant's right to file a complaint with the  
42 Attorney General pursuant to section 6 of this act.
- 43 (2) (a) The applicant may request, within 20 days after the  
44 housing provider's notice of the withdrawal, that the housing  
45 provider afford the applicant a copy of all information that the  
46 housing provider relied upon in considering the applicant, including  
47 criminal records.

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

4 g.]<sup>1</sup> <sup>3</sup>Nothing set forth in this act shall be construed to prohibit  
5 a housing provider from requiring an applicant to complete a  
6 housing application that includes any inquiries regarding an  
7 applicant's criminal record after]<sup>3</sup> <sup>1</sup>the]<sup>3</sup> <sup>3</sup>a<sup>1</sup> conditional offer is  
8 provided or from making any oral or written inquiries regarding an  
9 applicant's criminal record after the conditional offer is provided.  
10 The provisions of this section shall not preclude a housing provider  
11 from]<sup>3</sup> <sup>1</sup>refusing to provide housing to an applicant]<sup>3</sup> <sup>3</sup>rescinding  
12 a conditional offer<sup>1</sup> based upon the applicant's criminal record,  
13 unless the criminal record or relevant portion thereof has been  
14 expunged or erased through executive pardon, <sup>1</sup>as<sup>1</sup> provided]<sup>3</sup>  
15 <sup>1</sup>that such refusal is consistent with other applicable laws, rules  
16 and regulations]<sup>3</sup> <sup>3</sup>in P.L. , c. (C. ) (pending before the  
17 Legislature as this bill) or any other relevant federal or State law<sup>1</sup>  
18 c. A housing provider shall apply the standards established by this  
19 section to each applicant in a nondiscriminatory manner<sup>3</sup>.

20  
21 <sup>3</sup><sup>1</sup>4. a. A housing provider shall not, either before or after the  
22 issuance of a conditional offer, evaluate an applicant based on any of  
23 the following types of criminal records:

24 (1) arrests or charges that have not resulted in a criminal  
25 conviction;

26 (2) expunged convictions;

27 (3) convictions erased through executive pardon;

28 (4) vacated and otherwise legally nullified convictions;

29 (5) juvenile adjudications of delinquency; <sup>2</sup>and]<sup>2</sup>

30 (6) records that have been sealed <sup>2</sup>; and

31 (7) records from a different state concerning actions that, if  
32 committed in the State, would be decriminalized or legalized, or both,  
33 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
34 A1897/4269 (ACS) / S2535 of 2020) or P.L. , c. (C. ) (pending  
35 before the Legislature as A21 / S21 of 2020)<sup>2</sup> .

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

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

42 (2) is for an indictable offense of the first or second degree that  
43 was issued, or if the conviction resulted in a prison sentence that  
44 sentence concluded, within the 10 years immediately preceding the  
45 issuance of the conditional offer;

46 (3) is for an indictable offense of the third or fourth degree that  
47 was issued, or if the conviction resulted in a prison sentence that

1 concluded, within the five years immediately preceding the issuance of  
2 the conditional offer; or

3 (4) is for a disorderly person's offense that was issued, or if the  
4 conviction resulted in a prison sentence that concluded, within one  
5 year immediately preceding the issuance of the conditional offer.

6 c. (1) A housing provider may withdraw a conditional offer based  
7 on an applicant's criminal record only if the housing provider  
8 determines through reliable evidence that the criminal conduct in  
9 question indicates a demonstrable risk to resident safety or property  
10 and that, on balance, the withdrawal achieves a substantial, legitimate,  
11 and nondiscriminatory interest.

12 (2) If a housing provider withdraws a conditional offer, the  
13 housing provider shall provide the applicant with written notification  
14 that includes, with specificity, the reason or reasons for the withdrawal  
15 of the conditional offer and an opportunity to appeal the denial by  
16 providing evidence to the housing provider demonstrating inaccuracies  
17 within the applicant's criminal record or evidence of rehabilitation or  
18 other mitigating factors.

19 (3) The housing provider shall <sup>2</sup>[perform] not withdraw a  
20 conditional offer unless the housing provider has conducted<sup>2</sup> an  
21 individualized assessment of the application <sup>2</sup>. An individualized  
22 assessment of an application shall be conducted<sup>2</sup> in light of the  
23 following factors:

24 (a) The nature and severity of the criminal offense;

25 (b) The age of the applicant at the time of the occurrence of the  
26 criminal offense;

27 (c) The time which has elapsed since the occurrence of the  
28 criminal offense;

29 (d) Any information produced by the applicant, or produced on the  
30 applicant's behalf, in regard to the applicant's rehabilitation and good  
31 conduct since the occurrence of the criminal offense;

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

35 (f) Whether the criminal offense occurred on or was connected to  
36 property that was rented or leased by the applicant.

37 d. (1) The applicant may request, within 20 days after the housing  
38 provider's notice of the withdrawal, that the housing provider afford  
39 the applicant a copy of all information that the housing provider relied  
40 upon in considering the applicant, including criminal records.

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

44  
45 <sup>3</sup>5. a. A housing provider shall not, either before or after the  
46 issuance of a conditional offer, evaluate an applicant based on any of  
47 the following types of criminal records:

- 1       (1) arrests or charges that have not resulted in a criminal  
2 conviction;  
3       (2) expunged convictions;  
4       (3) convictions erased through executive pardon;  
5       (4) vacated and otherwise legally nullified convictions;  
6       (5) juvenile adjudications of delinquency; and  
7       (6) records that have been sealed.  
8       b. After the issuance of a conditional offer to an applicant, a  
9 housing provider may only consider a criminal record in the  
10 applicant's history that:  
11       (1) resulted in a conviction for murder, aggravated sexual assault,  
12 kidnapping, arson, human trafficking, <sup>4</sup>sexual assault in violation of  
13 N.J.S.2C:14-2, causing or permitting a child to engage in a prohibited  
14 sexual act or in the simulation of such an act in violation of paragraph  
15 (3) of subsection b. of N.J.S.2C:24-4, <sup>4</sup> or any crime that resulted in  
16 lifetime registration in a state sex offender registry;  
17       (2) is for an indictable offense of the first degree that was issued,  
18 or if the conviction resulted in a prison sentence that sentence  
19 concluded, within the six years immediately preceding the issuance of  
20 the conditional offer;  
21       (3) is for an indictable offense of the second or third degree that  
22 was issued, or if the conviction resulted in a prison sentence that  
23 <sup>4</sup>sentence<sup>4</sup> concluded, within the four years immediately preceding the  
24 issuance of the conditional offer; or  
25       (4) is for an indictable offense of the fourth degree that was  
26 issued, or if the conviction resulted in a prison sentence that <sup>4</sup>sentence<sup>4</sup>  
27 concluded, within one year immediately preceding the issuance of the  
28 conditional offer.  
29       c. (1) A housing provider may withdraw a conditional offer based  
30 on an applicant's criminal record only if the housing provider  
31 determines, by preponderance of the evidence, that the withdrawal is  
32 necessary to fulfill a substantial, legitimate, and nondiscriminatory  
33 interest.  
34       (2) If a housing provider withdraws a conditional offer, the  
35 housing provider shall provide the applicant with written notification  
36 that includes, with specificity, the reason or reasons for the withdrawal  
37 of the conditional offer and an opportunity to appeal the denial by  
38 providing evidence to the housing provider demonstrating inaccuracies  
39 within the applicant's criminal record or evidence of rehabilitation or  
40 other mitigating factors.  
41       (3) The housing provider shall perform an individualized  
42 assessment of the application in light of the following factors:  
43       (a) the nature and severity of the criminal offense;  
44       (b) the age of the applicant at the time of the occurrence of the  
45 criminal offense;  
46       (c) the time which has elapsed since the occurrence of the criminal  
47 offense;

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

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

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

9 d. (1) the applicant may request, within 30 days after the housing  
10 provider's notice of the withdrawal, that the housing provider afford  
11 the applicant a copy of all information that the housing provider relied  
12 upon in considering the applicant, including criminal records.

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

16  
17 <sup>3</sup>6. a. The director shall prepare:

18 (1) a model disclosure statement as indicated in subsection b. of  
19 section 4 of this act which provides notice that a housing provider  
20 intends to review and consider a person's criminal record in  
21 determining eligibility for housing or in taking any other adverse  
22 housing action against that person. The statement shall also provide an  
23 explanation of the criminal records that may be considered and the  
24 manner in which they may be considered, in accordance with the  
25 provisions of section 5 of this act. The statement shall also notify the  
26 person of the right to dispute, within 10 days of receiving such  
27 statement, the relevance and accuracy of the criminal record and to  
28 offer evidence of any mitigating facts or circumstances, including but  
29 not limited to the person's rehabilitation and good conduct since the  
30 criminal offense in question; and

31 (2) a model notice that provides notice that a housing provider has  
32 withdrawn a conditional offer or taken an adverse housing action  
33 based on a person's criminal record, provides space for the housing  
34 provider to identify with specificity the reason or reasons for  
35 withdrawing the conditional offer or taking the adverse housing action.  
36 The notification form shall also notify the person of the right to request  
37 from the housing provider a copy of all information upon which the  
38 housing provider relied in reaching its decision, including criminal  
39 records, and of the right to file a complaint with the division, as well as  
40 the applicable statute of limitations, and shall include such other  
41 additional information as the director deems appropriate.

42 b. The model documents prepared pursuant to this section shall be  
43 made available on the division's Internet website, at no cost, and shall  
44 be in English, Spanish, and in any other language the director deems  
45 appropriate.<sup>3</sup>



1 <sup>1</sup>[4. Unless otherwise permitted or required by law, a] <sup>3</sup>[5.] 7.<sup>3</sup>  
2 a. A<sup>1</sup> housing provider shall not knowingly or purposefully publish,  
3 or cause to be published, any housing advertisement that explicitly  
4 provides that the housing provider will not consider any applicant who  
5 has been arrested or convicted of one or more crimes or offenses <sup>1</sup>,  
6 except for drug-related criminal activity for the manufacture or  
7 production of methamphetamine on the premises of federally assisted  
8 housing, and whether the applicant is subject to a lifetime registration  
9 requirement under a State sex offender registration program.

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

24 c. <sup>3</sup>Unless otherwise required by law, a housing provider shall not:  
25 (1) distribute or disseminate an applicant's criminal record to any  
26 person who is not expected to use the criminal record for the purpose  
27 of evaluating the applicant in a manner consistent with <sup>3</sup>[P.L. , c.  
28 (C. ) (pending before the Legislature as this bill)] this act<sup>3</sup>; or  
29 (2) use an applicant's criminal record for a purpose that is not  
30 consistent with <sup>3</sup>[P.L. , c. (C. ) (pending before the Legislature  
31 as this bill)]<sup>1</sup> this act<sup>3</sup>.

32  
33 <sup>1</sup>[5. This act shall not apply:  
34 a. If a federal law or regulation requires the housing provider  
35 to consider an applicant's criminal records for residential leasing  
36 purposes; or  
37 b. If a federal law or regulation otherwise allows for the denial  
38 of an applicant due to certain criminal convictions.]<sup>1</sup>  
39

40 <sup>3</sup>[<sup>1</sup>6. a. To encourage residential landlords to provide housing  
41 opportunities to formerly incarcerated individuals, landlords subject  
42 to the provisions of this act shall be immune from liability in any  
43 civil action arising as a result of the landlord's decision to rent to  
44 individuals with a criminal record or who were otherwise convicted  
45 of a criminal offense, or as a result of a landlord's decision to not  
46 engage in criminal background screening.

1 b. Notwithstanding the provisions of subsection a. of this  
2 section, immunity from liability shall not be conferred upon a  
3 landlord who, knowingly or unknowingly, rents an apartment to a  
4 person with a conviction for murder, aggravated sexual assault,  
5 kidnapping, arson, human trafficking, or any crime that resulted in  
6 lifetime registration in a state sex offender registry.<sup>1</sup>】<sup>3</sup>

7  
8 <sup>1</sup>【6. a. A person claiming to be aggrieved pursuant to this act  
9 may file a complaint or action with the Division on Civil Rights or  
10 in the Superior Court of New Jersey alleging a violation of the  
11 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).

12 b.】<sup>3</sup>【7.<sup>1</sup> Any housing provider who violates this act shall be  
13 liable for a civil penalty in an amount not to exceed <sup>1</sup>【\$1,000】  
14 \$100<sup>1</sup> for the first violation, <sup>1</sup>【\$5,000】 \$500<sup>1</sup> for the second  
15 violation, and <sup>1</sup>【\$10,000】 \$1,000<sup>1</sup> for each subsequent violation  
16 collectible by the Attorney General in a summary proceeding  
17 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,  
18 c.274 (C.2A:58-10 et seq.).】<sup>3</sup>

19  
20 <sup>3</sup>8. <sup>4</sup>a.<sup>4</sup> To encourage residential landlords to provide housing  
21 opportunities to formerly incarcerated individuals, landlords subject to  
22 the provisions of this act shall be immune from liability in any civil  
23 action arising as a result of the landlord's decision to rent to  
24 individuals with a criminal record or who were otherwise convicted of  
25 a criminal offense, or as a result of a landlord's decision to not engage  
26 in a criminal background screening.<sup>3</sup>

27 <sup>4</sup>b. Nothing in subsection a. of this section shall be construed to  
28 affect in any way the immunity from liability conferred by law upon a  
29 landlord who rents an apartment to a person with a conviction for  
30 murder, aggravated sexual assault, kidnapping, arson, human  
31 trafficking, sexual assault in violation of N.J.S.2C:14-2, causing or  
32 permitting a child to engage in a prohibited sexual act or in the  
33 simulation of such an act in violation of paragraph (3) of subsection b.  
34 of N.J.S.2C:24-4, or any crime that resulted in lifetime registration in a  
35 state sex offender registry.<sup>4</sup>

36  
37 <sup>3</sup>9. A housing provider shall not require an applicant to submit to a  
38 drug or alcohol test, or request the applicant's consent to obtain  
39 information from a drug abuse treatment facility.<sup>3</sup>

40  
41 <sup>3</sup>10. A person shall not interfere with, restrain, or deny the  
42 exercise of, or the attempt to exercise, any right protected under this  
43 act. <sup>4</sup>【It shall be a rebuttable presumption of unlawful retaliation  
44 if】 If the division determines that<sup>4</sup> a housing provider <sup>4</sup>【or any  
45 other person takes an adverse action against a person within 90 days  
46 of the person's exercise of the rights protected by this act. This

1 rebuttable presumption shall be sufficient to establish unlawful  
2 retaliation, unless the housing provider or other person is able to  
3 demonstrate that the action would have been taken in the absence of  
4 such protected activity] has engaged in one or more unlawful  
5 actions against a person with the intent of retaliating for the  
6 person's filing of an action against the housing provider pursuant to  
7 section 12 of this act, then each unlawful retaliatory action shall be  
8 enforced, pursuant to section 12 of this act, as a separate and  
9 distinct violation of this act<sup>4 3</sup>.

10  
11 <sup>3</sup>11. The division shall maintain data on the number of  
12 complaints filed pursuant to this act, demographic information on  
13 the complainants, the identity of the housing providers, the number  
14 of investigations conducted, and the disposition of every complaint  
15 and investigation. The division shall annually publish and post on  
16 the division's Internet website, information on substantiated  
17 complaints that have resulted in the issuance of a monetary penalty  
18 pursuant to section 12 of this act.<sup>3</sup> <sup>4</sup>The division shall not publish  
19 on the division's Internet website information regarding any  
20 complaint against a housing provider for which the housing  
21 provider is in good faith compliance with the requirements made by  
22 the director pursuant to subsection a. of section 12 of this act.<sup>4</sup>

23  
24 <sup>3</sup>12. a. An action that alleges a violation of this act shall not be  
25 initiated by <sup>4</sup>[an applicant] any person<sup>4</sup> in court. <sup>4</sup>[If an applicant]  
26 The director, or an applicant or prospective applicant who<sup>4</sup> believes  
27 that a housing provider has violated a provision of this act with respect  
28 to <sup>4</sup>[the] that<sup>4</sup> applicant<sup>4</sup> or prospective applicant<sup>4</sup>, <sup>4</sup>[that applicant]<sup>4</sup>  
29 may file a complaint with the division. <sup>4</sup>Upon the filing of a  
30 complaint by a person other than the director, the division shall make a  
31 good faith effort to notify the housing provider of the alleged violation  
32 and offer the housing provider the opportunity to mediate and address  
33 the complaint within 14 days of receiving the notice. The division  
34 shall not subject a housing provider to any penalty pursuant to  
35 subsection c. of this section if the complaint is addressed pursuant to  
36 the process identified in this subsection.

37 b.<sup>4</sup> If the<sup>4</sup> complaint is not resolved in accordance with subsection  
38 a. of this section, and the<sup>4</sup> division determines<sup>4</sup> following an  
39 investigation<sup>4</sup> that the complaint is substantiated, the director shall  
40 issue a monetary penalty against the housing provider<sup>4</sup> and may  
41 require the housing provider to take one or more of the actions  
42 authorized by subsection d. of this section<sup>4</sup>.

43 <sup>4</sup>(1)<sup>4</sup> A housing provider may appeal a<sup>4</sup> [penalty] final decision  
44 by the director<sup>4</sup> issued pursuant to this section<sup>4</sup> [in a court of  
45 competent jurisdiction] to the Appellate Division of the Superior  
46 Court<sup>4</sup>.

1       <sup>4</sup>(2)<sup>4</sup> A complainant may appeal, <sup>4</sup>[in a court of competent  
2 jurisdiction] to the Appellate Division of the Superior Court<sup>4</sup> , a  
3 finding by the director following an investigation that the complaint is  
4 not substantiated, but the complainant may not appeal a decision by  
5 the director not to investigate a complaint.

6       <sup>4</sup>[b.] c.<sup>4</sup> A housing provider who violates a provision of this act  
7 shall be liable for the following applicable penalties:

8       (1) an amount not to exceed \$1,000 if the housing provider has not  
9 committed any prior violation within the five-year period ending on  
10 the date of the filing of the charge;

11       (2) an amount not to exceed \$5,000 if the housing provider has  
12 committed one other violation within the five-year period ending on  
13 the date of the filing of the charge; and

14       (3) an amount not to exceed \$10,000 if the housing provider has  
15 committed two or more other violations within the seven-year period  
16 ending on the date of the filing of the charge.

17       <sup>4</sup>[c.] d. The director is authorized to require a housing provider to  
18 take one or more of the following actions upon a finding that the  
19 housing provider has violated a provision of this act:

20       (1) The director may require a housing provider to cease and  
21 desist from continuing to violate this act; to communicate in writing to  
22 the housing provider's employees and agents their obligations under  
23 this act; and to report to the director on the manner of compliance for a  
24 period not to exceed two years provided that the housing provider does  
25 not commit future violations of the act;

26       (2) If a housing provider has committed at least one other  
27 violation of this act within the preceding five-year period, the director  
28 may require the housing provider to make a good faith effort to  
29 remedy the violation with respect to the applicant when a remedy is  
30 possible, by issuing a conditional offer, if the violation has resulted in  
31 a failure to issue a conditional offer, or by providing the same or a  
32 similar rental dwelling unit to the applicant on the same terms as the  
33 prior conditional offer if the same or a similar rental dwelling unit is  
34 currently or will become available, if the violation has resulted in the  
35 withdrawal of a conditional offer. Notwithstanding any provision of  
36 the Anti-Eviction Act, P.L.1974, c.49 (C.2A:18-61.1 et seq.) to the  
37 contrary, if an appeal by a housing provider is successful, and the court  
38 overturns a final decision of the director that resulted in an order under  
39 this paragraph, then a determination that the housing provider did not  
40 violate the provisions of this act as evidenced by such successful  
41 appeal shall be grounds for the housing provider to evict the former  
42 applicant if that person resides in a rental dwelling unit owned by the  
43 housing provider as the result of the director's order, so long as the  
44 housing provider provides the applicant with at least 45 days' notice  
45 prior to the eviction;

46       (3) Unless housing is provided to the applicant pursuant to  
47 paragraph (2) of this subsection, the director may require that the  
48 applicant's rental application fee be returned; and

1       (4) The director may require that a portion of the sum owed by the  
2 housing provider pursuant to subsection c. of this section be paid to the  
3 applicant in an amount not to exceed \$1,000.

4       e.<sup>4</sup> Nothing herein contained shall bar, exclude or otherwise affect  
5 any right or action which may exist independently of any right or  
6 action created herein, including but not limited to any right or action  
7 under P.L.1945, c.169 (C.10:5-1 et seq.).<sup>3</sup>

8  
9       <sup>1</sup>~~[7.]~~ <sup>3</sup>~~[8.]~~ <sup>13.</sup><sup>3</sup> In accordance with the "Administrative  
10 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the <sup>1</sup>~~[Attorney~~  
11 ~~General]~~ <sup>3</sup>~~[Commissioner of Community Affairs]~~ <sup>1</sup> may ~~]~~ director  
12 shall<sup>3</sup> adopt the rules and regulations necessary to effectuate the  
13 purposes of this act <sup>3</sup>on or before the first day of the fifth month next  
14 following enactment<sup>3</sup>.

15  
16       <sup>1</sup>~~[8.]~~ <sup>3</sup>~~[9.]~~ <sup>14.</sup><sup>3</sup> This act shall take effect on the first day of the  
17 seventh month next following the date of enactment, but the  
18 <sup>1</sup>~~[Attorney General]~~ <sup>3</sup>~~[Commissioner of Community Affairs]~~ <sup>1</sup>  
19 division<sup>3</sup> may take any anticipatory administrative action in advance  
20 as shall be necessary for the implementation of this act.