

[Third Reprint]

SENATE, No. 250

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

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)

Co-Sponsored by:

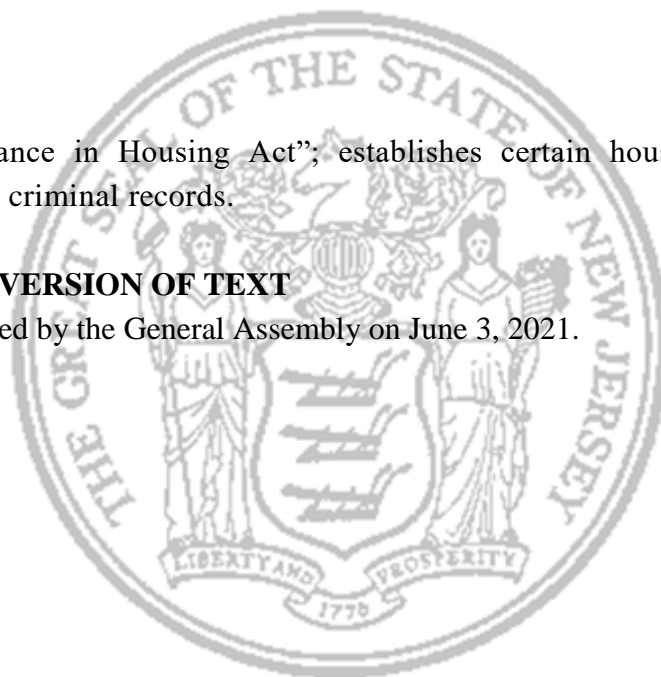
Senators Ruiz, Turner, Assemblywomen Carter, Timberlake, Assemblyman Spearman, Assemblywoman Jasey, Assemblymen Zwicker, McClellan, Assemblywomen Chaparro, Vainieri Huttle, Assemblyman Stanley, Assemblywoman Speight and Assemblyman Freiman

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 June 3, 2021.



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

1 AN ACT concerning the housing rights of ²certain² persons ³**[²**,
 2 including persons²]³ with criminal records and ³**[²persons who**
 3 face discrimination based on immigration status, credit history,
 4 gender identity, source of income, and involvement in certain
 5 landlord-tenant actions, and²]³ supplementing ³**[P.L.1945, c.169**
 6 (C.10:5-1 et seq.)², and amending various parts of the statutory
 7 law²] chapter 8 of Title 46 of the Revised Statutes³.

8
 9 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 10 *of New Jersey:*

11
 12 ³**[1. ²[This act] (New section) Sections 1 through 12 of P.L. ,**
 13 c. (C.) (pending before the Legislature as this bill)² shall be
 14 known and may be cited as the “Fair Chance in Housing Act.”³**]³**

15
 16 ³**[¹2. ²(New section)² The Legislature finds and declares that:**

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

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

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

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

33 e. It is, therefore, necessary and in the public interest for the
 34 Legislature to enact legislation to supplement the “Law Against
 35 Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.), for the purpose
 36 of establishing certain housing rights of persons with criminal
 37 records.¹]³

38

39 ¹**[2.] ³[3.¹ ²(New section)² As used in ²[this act] sections 1**
 40 through 12 of P.L. , c. (C.) (pending before the Legislature
 41 as this bill)²:

42 "Applicant" means any person considered for, who requests to be
 43 considered for, or who requests to be considered for tenancy within
 44 a rental dwelling unit.

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:

¹Senate SCU committee amendments adopted July 16, 2020.

²Senate floor amendments adopted March 25, 2021.

³Assembly floor amendments adopted June 3, 2021.

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

5 “Criminal record” means information ²about an individual²
6 collected by criminal justice agencies ²[on individuals]² consisting
7 of identifiable descriptions and notations of arrests, detentions,
8 indictments, ²criminal complaints,² or other formal criminal
9 charges, and any disposition arising therefrom, including acquittal,
10 sentencing, correctional supervision, release or conviction,
11 including, but not limited to, any sentence arising from a verdict or
12 plea of guilty or nolo contendere, including a sentence of
13 incarceration, a suspended sentence, a sentence of probation, or a
14 sentence of conditional discharge.

15 ²“Director” means the Director of the Division on Civil Rights.

16 ²“Division” means the Division on Civil Rights in the Department
17 of Law and Public Safety.²

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

22 “Pending criminal accusation” means an existing accusation that
23 an individual has committed a crime, lodged by a law enforcement
24 agency through an indictment, information, complaint, or other
25 formal charge.

26 “Rental dwelling unit” means a dwelling unit offered for rent by
27 a housing provider for residential purposes, other than a dwelling
28 unit in an owner-occupied premises of not more than three dwelling
29 units. ³

30
31 ¹[3.] ³[4.1 ²(New section)² a. (1) A housing provider shall not
32 require an applicant to complete any housing application that
33 includes any inquiries regarding an applicant’s criminal record prior
34 to the provision of a conditional offer ¹, except that a housing
35 provider may consider whether an applicant has ever been
36 convicted of drug-related criminal activity for the manufacture or
37 production of methamphetamine on the premises of federally
38 assisted housing, and whether the applicant is subject to a lifetime
39 registration requirement under a State sex offender registration
40 program¹.

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

44 (3) An applicant may provide evidence to the housing provider
45 demonstrating inaccuracies within the applicant's criminal record or
46 evidence of rehabilitation or other mitigating factors.

1 b. ¹Notwithstanding the provisions of subsection a. of this
 2 section, if an applicant discloses any information regarding the
 3 applicant's criminal record, by voluntary oral or written disclosure,
 4 prior to the conditional offer, the housing provider may make
 5 inquiries regarding the applicant's criminal record prior to making
 6 the conditional offer.

7 c.¹ Prior to accepting any application fee, a housing provider
 8 shall disclose in writing to the applicant:

9 (1) Whether the eligibility criteria of the housing provider
 10 include the review and consideration of criminal history; and

11 (2) A statement that the applicant, pursuant to subsection a. of
 12 this section, may provide evidence demonstrating inaccuracies
 13 within the applicant's criminal record or evidence of rehabilitation
 14 or other mitigating factors.

15 ¹d. ²c. A housing provider shall not, either before or after
 16 the issuance of a conditional offer, evaluate an applicant based on
 17 any of the following types of criminal records:

18 (1) arrests or charges that have not resulted in a criminal
 19 conviction;

20 (2) expunged convictions;

21 (3) convictions on appeal;

22 (4) vacated and otherwise legally nullified convictions;

23 (5) juvenile adjudications of delinquency;

24 (6) records that have been sealed; and

25 (7) criminal convictions arising for conduct committed outside
 26 of the State that, if committed within the State, would not constitute
 27 an indictable offense.

28 d.¹ After the issuance of a conditional offer to an applicant, a
 29 housing provider may only consider a criminal record in the
 30 applicant's history that:

31 (1)² ¹has occurred within ²resulted in a conviction that was
 32 issued within, or if the conviction resulted in a prison sentence that
 33 sentence concluded within,¹ the² ¹10 ²three¹ years immediately
 34 preceding the issuance of the conditional offer ; and

35 (2) consists of a² ¹pending criminal accusation or a¹
 36 ²criminal conviction that, pursuant to subsection b. of
 37 N.J.S.2C:52-2, is not eligible for expungement.

38 e.² ¹(1)¹ ²A housing provider may withdraw a conditional
 39 offer based on an applicant's criminal record only if the housing
 40 provider determines,² ¹on balance ²by clear and convincing
 41 evidence¹, that the withdrawal² ¹achieves a substantial,
 42 legitimate, nondiscriminatory interest. (2)² ¹is necessary, because
 43 the applicant's criminal conduct renders the applicant unfit for the
 44 housing arrangement applied for.¹ The housing provider's
 45 determination of² ¹a nondiscriminatory interest ²unfitness for
 46 housing¹ shall be reasonable in light of the following factors:²

1 (3) a copy of the criminal records and other information that the
2 housing provider relied on to inform the decision;

3 (4)¹ a notice ¹, in both English and Spanish,¹ that advises the
4 applicant of the applicant's right to file a complaint with the
5 Attorney General pursuant to section]² ¹[6 of this act] ²[9 of
6 P.L. , c. (C.) (pending before the Legislature as this bill);
7 and

8 (5) a written offer, provided in Spanish, to provide the applicant
9 with the explanations required pursuant to paragraphs (1) and (2) of
10 this subsection in Spanish, if that is the applicant's primary
11 language¹.]²

12 ¹[(2) (a) The applicant may request, within 20 days after the
13 housing provider's notice of the withdrawal, that the housing
14 provider afford the applicant a copy of all information that the
15 housing provider relied upon in considering the applicant, including
16 criminal records.

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

20 g. Nothing set forth in this act shall be construed to prohibit a
21 housing provider from requiring an applicant to complete a housing
22 application that includes any inquiries regarding an applicant's
23 criminal record after the conditional offer is provided or from
24 making any oral or written inquiries regarding an applicant's
25 criminal record after the conditional offer is provided. The
26 provisions of this section shall not preclude a housing provider from
27 refusing to provide housing to an applicant based upon the
28 applicant's criminal record, unless the criminal record or relevant
29 portion thereof has been expunged or erased through executive
30 pardon, provided that such refusal is consistent with other
31 applicable laws, rules and regulations]² [g.] c.² A housing provider
32 shall apply the standards established by this section to each
33 applicant in a nondiscriminatory manner¹.]³

34
35 ³[²5. (New section) a. A housing provider shall not, either
36 before or after the issuance of a conditional offer, evaluate an
37 applicant based on any of the following types of criminal records:

38 (1) arrests or charges that have not resulted in a criminal
39 conviction;

40 (2) expunged convictions;

41 (3) convictions erased through executive pardon;

42 (4) vacated and otherwise legally nullified convictions;

43 (5) juvenile adjudications of delinquency; and

44 (6) records that have been sealed.

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

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

4 (2) is for an indictable offense of the first degree that was
5 issued, or if the conviction resulted in a prison sentence that
6 sentence concluded, within the six years immediately preceding the
7 issuance of the conditional offer;

8 (3) is for an indictable offense of the second or third degree that
9 was issued, or if the conviction resulted in a prison sentence that
10 concluded, within the four years immediately preceding the
11 issuance of the conditional offer; or

12 (4) is for an indictable offense of the fourth degree that was
13 issued, or if the conviction resulted in a prison sentence that
14 concluded, within one year immediately preceding the issuance of
15 the conditional offer.

16 c. (1) a housing provider may withdraw a conditional offer
17 based on an applicant's criminal record only if the housing provider
18 determines, by preponderance of the evidence, that the withdrawal
19 is necessary to fulfill a substantial, legitimate, and
20 nondiscriminatory interest.

21 (2) if a housing provider withdraws a conditional offer, the
22 housing provider shall provide the applicant with written
23 notification that includes, with specificity, the reason or reasons for
24 the withdrawal of the conditional offer and an opportunity to appeal
25 the denial by providing evidence to the housing provider
26 demonstrating inaccuracies within the applicant's criminal record or
27 evidence of rehabilitation or other mitigating factors.

28 (3) the housing provider shall perform an individualized
29 assessment of the application in light of the following factors:

30 (a) the nature and severity of the criminal offense;

31 (b) the age of the applicant at the time of the occurrence of the
32 criminal offense;

33 (c) the time which has elapsed since the occurrence of the
34 criminal offense;

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

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

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

43 d. (1) the applicant may request, within 30 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 (2) a housing provider shall provide the information requested
2 under paragraph (1) of this subsection, free of charge, within 10
3 days after receipt of a timely request.²]³

4
5 ³[²6. (New section) a. The director shall prepare:

6 (1) a model disclosure statement as indicated in subsection b. of
7 section 4 of P.L. c. (C.) (pending before the Legislature as
8 this bill) which provides notice that a housing provider intends to
9 review and consider a person's criminal record in determining
10 eligibility for housing or in taking any other adverse housing action
11 against that person. The statement shall also provide an explanation
12 of the criminal records that may be considered and the manner in
13 which they may be considered, in accordance with the provisions of
14 section 5 of P.L. c. (C.) (pending before the Legislature as
15 this bill). The statement shall also notify the person of the right to
16 dispute, within 10 days of receiving such statement, the relevance
17 and accuracy of the criminal record and to offer evidence of any
18 mitigating facts or circumstances, including but not limited to the
19 person's rehabilitation and good conduct since the criminal offense
20 in question; and

21 (2) a model notice that provides notice that a housing provider
22 has withdrawn a conditional offer or taken an adverse housing
23 action based on a person's criminal record, provides space for the
24 housing provider to identify with specificity the reason or reasons
25 for withdrawing the conditional offer or taking the adverse housing
26 action. The notification form shall also notify the person of the
27 right to request from the housing provider a copy of all information
28 upon which the housing provider relied in reaching its decision,
29 including criminal records, and of the right to file a complaint with
30 the Attorney General or pursue the other remedies pursuant to
31 P.L.1945, c.169 (C.10:5-1 et seq.), as well as the applicable statute
32 of limitations, and shall include such other additional information as
33 the director deems appropriate.

34 b. The model documents prepared pursuant to this section shall
35 be made available on the division's Internet website, at no cost, and
36 shall be in English, Spanish, and in any other language the director
37 deems appropriate.²]³

38
39 ¹[⁴. Unless otherwise permitted or required by law, a] ²[⁵.]
40 ³[⁷. (New section)² a. A¹ housing provider shall not knowingly or
41 purposefully publish, or cause to be published, any housing
42 advertisement that explicitly provides that the housing provider will
43 not consider any applicant who has been arrested or convicted of
44 one or more crimes or offenses ¹, except for drug-related criminal
45 activity for the manufacture or production of methamphetamine on
46 the premises of federally assisted housing, and whether the

1 applicant is subject to a lifetime registration requirement under a
2 State sex offender registration program.

3 b. ²A housing provider shall not print, publish, circulate, issue,
4 display, post, or mail, or cause to be printed, published, circulated,
5 issued, displayed, posted or mailed any statement, advertisement,
6 publication or sign, or use any form of application for the rental,
7 lease, or sublease of any real property or part or portion thereof or
8 make any record or inquiry in connection with the prospective
9 rental, lease, or sublease of any real property or part or portion
10 thereof which expresses, directly or indirectly, any unlawful
11 limitation, specification or discrimination as to criminal record,
12 except as permitted by this act and for drug-related criminal activity
13 for the manufacture or production of methamphetamine on the
14 premises of federally assisted housing, and whether the applicant is
15 subject to a lifetime registration requirement under a State sex
16 offender registration program.

17 c.² Unless otherwise required by law, a housing provider shall
18 not:

19 (1) distribute or disseminate an applicant's criminal record to
20 any person who is not expected to use the criminal record for the
21 purpose of evaluating the applicant in a manner consistent with
22 sections 1 through 12 of P.L. c. (C.) (pending before the
23 Legislature as this bill); or

24 (2) use an applicant's criminal record for a purpose that is not
25 consistent with sections 1 through 12 of P.L. c. (C.)
26 (pending before the Legislature as this bill)¹.³

27
28 ³[²8. (New section) To encourage residential landlords to
29 provide housing opportunities to formerly incarcerated individuals,
30 landlords subject to the provisions of sections 1 through 12 of
31 P.L. c. (C.) (pending before the Legislature as this bill) shall
32 be immune from liability in any civil action arising as a result of the
33 landlord's decision to rent to individuals with a criminal record or
34 who were otherwise convicted of a criminal offense, or as a result
35 of a landlord's decision to not engage in a criminal background
36 screening.²³

37
38 ¹[5. This act shall not apply:
39 a. If a federal law or regulation requires the housing provider
40 to consider an applicant's criminal records for residential leasing
41 purposes; or
42 b. If a federal law or regulation otherwise allows for the denial
43 of an applicant due to certain criminal convictions.¹

44
45 ²[¹6.] ³[9. (New section)² A housing provider shall not require
46 an applicant to submit to a drug or alcohol test, or request the

1 applicant's consent to obtain information from a drug abuse
 2 treatment facility.¹】³

3
 4 ²【¹7.】 ³【10. (New section)² A person shall not interfere with,
 5 restrain, or deny the exercise of, or the attempt to exercise, any right
 6 protected under ²sections 1 through 12 of² P.L. , c. (C.)
 7 (pending before the Legislature as this bill). It shall be a rebuttable
 8 presumption of unlawful retaliation if a housing provider or any
 9 other person takes an adverse action against a person within 90 days
 10 of the person's exercise of the rights protected in ²sections 1
 11 through 12 of² P.L. , c. (C.) (pending before the Legislature
 12 as this bill). This rebuttable presumption shall be sufficient to
 13 establish unlawful retaliation, unless the housing provider or other
 14 person is able to demonstrate that the action would have been taken
 15 in the absence of such protected activity.¹】³

16
 17 ²【¹8.】 ³【11. (New section)² The ²【Division on Civil Rights】
 18 division² shall maintain data on the number of complaints filed
 19 pursuant to ²sections 1 through 12 of² P.L. , c. (C.)
 20 (pending before the Legislature as this bill), demographic
 21 information on the ²【complaints】 complainants² , the identity of the
 22 housing providers, the number of investigations conducted, and the
 23 disposition of every complaint and investigation, which shall be
 24 published and posted online annually.¹】³

25
 26 ¹【6.】 ²【9.】¹ a. A person claiming to be aggrieved pursuant to
 27 this act may file a complaint or action with the Division on Civil
 28 Rights or in the Superior Court of New Jersey alleging a ³【12.
 29 (New section) A² violation ²of sections 1 through 12 of P.L. ,
 30 c. (C.) (pending before the Legislature as this bill) shall
 31 constitute unlawful discrimination under section 11² of the "Law
 32 Against Discrimination," P.L.1945, c.169 ²【(C.10:5-1 et seq.).

33 b. Any housing provider who violates this act shall be liable for
 34 a civil penalty in an amount not to exceed \$1,000 for the first
 35 violation, \$5,000 for the second violation, and \$10,000 for each
 36 subsequent violation collectible by the Attorney General in a
 37 summary proceeding pursuant to the "Penalty Enforcement Law of
 38 1999," P.L.1999, c.274 (C.2A:58-10 et seq.)】 (C.10:5-12)².】³

39
 40 ³【²13. (New section) a. Any person, including but not limited
 41 to, any owner, lessee, sublessee, assignee or managing agent of, or
 42 other person having the right of ownership or possession of or the
 43 right to sell, rent, lease, assign, or sublease any real property or part
 44 or portion thereof, real estate broker, real estate salesperson, or
 45 employee or agent of any of these, who refuses to rent or lease, or

1 refuses to offer to rent or lease, any real property or portion thereof
2 based on a prospective tenant's involvement in a landlord-tenant
3 action that resulted in a final judgment against the prospective
4 tenant within three years of the effective date of the prospective
5 rental or lease agreement, shall provide the prospective tenant with
6 written notification, provided using a model notification form made
7 available on the division's Internet website pursuant to subsection c.
8 of this section, in which the person includes, with specificity and in
9 the language the applicant best understands from among English,
10 Spanish or any other language in which the division has made the
11 model disclosure form available pursuant to subsection c. of this
12 section, the reason or reasons for the refusal to rent or lease or offer
13 to rent or lease to the prospective tenant.

14 b. Where there is no final judgment against a prospective tenant
15 within three years of the effective date of the prospective rental or
16 lease agreement, there shall be a rebuttable presumption that a
17 person is in violation of paragraph (6) of subsection g. or paragraph
18 (6) of subsection h. of section 11 of P.L.1945, c.169 (C.10:5-12), as
19 the case may be, if it is established that the person requested
20 information from a tenant screening bureau relating to the
21 prospective tenant or otherwise inspected court records relating to
22 the prospective tenant which disclose a past or pending landlord-
23 tenant action and the person subsequently refuses to rent or lease or
24 offer to rent or lease to the prospective tenant.

25 c. (1) the division shall prepare a model notification form as
26 indicated in subsection a. of this section which provides notice to a
27 prospective tenant that a person refuses to rent or lease, or refuses
28 to offer to rent or lease, any real property or portion thereof and
29 provides space for the person to identify with specificity the reason
30 or reasons for the refusal to rent or lease or offer to rent or lease to
31 the prospective tenant. The notification form shall also advise the
32 prospective tenant of the right to file a complaint with the Attorney
33 General or pursue the other remedies pursuant to P.L.1945, c.169
34 (C.10:5-1 et seq.), as well as the applicable statute of limitations,
35 and shall include such other information as the director deems
36 appropriate.

37 (2) the model notification form prepared pursuant to this
38 subsection shall be made available on the division's Internet
39 website, at no cost, and shall be in English, Spanish, and in any
40 other language the director deems appropriate.²】³

41
42 ³【²14. (New section) a. It shall not be an unlawful
43 discrimination under P.L.1945, c. 169 (C.10:5-1 et seq.), for any
44 person to discriminate on the basis of immigration or citizenship

1 status, or to make any inquiry as to a person's immigration or
 2 citizenship status, or to give preference to a person who is a citizen
 3 or national of the United States over an equally qualified person
 4 who is a not a citizen or national of the United States, when such
 5 discrimination, inquiry, or preference is required or expressly
 6 permitted by federal or state law or regulation. The provisions of
 7 P.L.1945, c.169 (C.10:5-1 et seq.) shall not be interpreted to
 8 prohibit inquiries or determinations based on immigration or
 9 citizenship status when such actions are necessary to obtain the
 10 benefits of a federal or State program.

11 b. The provisions of P.L.1945, c.169 (C.10:5-1 et seq.), shall not
 12 be interpreted to prohibit disclosures of information regarding or
 13 relating to the immigration or citizenship status of a person, where
 14 required or expressly permitted by federal or State law or regulation
 15 or when in compliance with any legal obligation under a subpoena,
 16 warrant issued by a court, or order issued by a court.

17 c. The provisions of P.L.1945, c.169 (C.10:5-1 et seq.), shall not
 18 be interpreted to prohibit verification of immigration or citizenship
 19 status or any discrimination based upon verified immigration or
 20 citizenship status, where required or expressly permitted by federal
 21 or State law or regulation. The provisions of P.L.1945, c.169
 22 (C.10:5-1 et seq.), shall not be construed to alter an employer's
 23 rights or obligations under the federal "Immigration and Nationality
 24 Act," 8 U.S.C. s.1324a, regarding obtaining documentation
 25 evidencing identity and authorization for employment. Any action
 26 taken by an employer that is required by 8 U.S.C. s.1324a is not a
 27 violation of P.L.1945, c.169 (C.10:5-1 et seq.).²³

28
 29 ³²15. Section 3 of P.L.1945, c.169 (C.10:5-3) is amended to
 30 read as follows:

31 3. The Legislature finds and declares that practices of
 32 discrimination against any of its inhabitants, because of race, creed,
 33 color, national origin, immigration or citizenship status, ancestry,
 34 age, sex, gender identity **[or]** gender expression, affectional or
 35 sexual orientation, marital status, familial status, liability for service
 36 in the Armed Forces of the United States, disability **[or]** ,
 37 nationality, source of lawful income used for rental or mortgage
 38 payments, or criminal record, are matters of concern to the
 39 government of the State, and that such discrimination threatens not
 40 only the rights and proper privileges of the inhabitants of the State
 41 but menaces the institutions and foundation of a free democratic
 42 State; provided, however, that nothing in this expression of policy
 43 prevents the making of legitimate distinctions between citizens and
 44 aliens when required by federal law or otherwise necessary to
 45 promote the national interest.

1 The Legislature further declares its opposition to such practices
2 of discrimination when directed against any person by reason of the
3 race, creed, color, national origin, immigration or citizenship status,
4 ancestry, age, sex, gender identity **[or]** gender expression,
5 affectional or sexual orientation, marital status, liability for service
6 in the Armed Forces of the United States, disability **[or]** nationality, source of lawful income used for rental or mortgage
7 payments, or criminal record of that person or that person's family
8 members, partners, members, stockholders, directors, officers,
9 managers, superintendents, agents, employees, business associates,
10 suppliers, or customers, in order that the economic prosperity and
11 general welfare of the inhabitants of the State may be protected and
12 ensured.
13

14 The Legislature further finds that because of discrimination,
15 people suffer personal hardships, and the State suffers a grievous
16 harm. The personal hardships include: economic loss; time loss;
17 physical and emotional stress; and in some cases severe emotional
18 trauma, illness, homelessness or other irreparable harm resulting
19 from the strain of employment controversies; relocation, search and
20 moving difficulties; anxiety caused by lack of information,
21 uncertainty, and resultant planning difficulty; career, education,
22 family and social disruption; and adjustment problems, which
23 particularly impact on those protected by this act. Such harms
24 have, under the common law, given rise to legal remedies, including
25 compensatory and punitive damages. The Legislature intends that
26 such damages be available to all persons protected by this act and
27 that this act shall be liberally construed in combination with other
28 protections available under the laws of this State.²

29 (cf: P.L.2019, c.436, s.1)³
30

31 ³[²16. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to
32 read as follows:

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

35 a. "Person" includes one or more individuals, partnerships,
36 associations, organizations, labor organizations, corporations, legal
37 representatives, trustees, trustees in bankruptcy, receivers, and
38 fiduciaries.

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

41 c. "Labor organization" includes any organization which exists
42 and is constituted for the purpose, in whole or in part, of collective
43 bargaining, or of dealing with employers concerning grievances,
44 terms or conditions of employment, or of other mutual aid or
45 protection in connection with employment.

- 1 d. "Unlawful employment practice" and "unlawful
2 discrimination" include only those unlawful practices and acts
3 specified in section 11 of P.L.1945, c.169 (C.10:5-12).
- 4 e. "Employer" includes all persons as defined in subsection a.
5 of this section unless otherwise specifically exempt under another
6 section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State,
7 any political or civil subdivision thereof, and all public officers,
8 agencies, boards, or bodies.
- 9 f. "Employee" does not include any individual employed in the
10 domestic service of any person.
- 11 g. "Liability for service in the Armed Forces of the United
12 States" means subject to being ordered as an individual or member
13 of an organized unit into active service in the Armed Forces of the
14 United States by reason of membership in the National Guard, naval
15 militia or a reserve component of the Armed Forces of the United
16 States, or subject to being inducted into such armed forces through
17 a system of national selective service.
- 18 h. "Division" means the "Division on Civil Rights" created by
19 P.L.1945, c.169 (C.10:5-1 et seq.).
- 20 i. "Attorney General" means the Attorney General of the State
21 of New Jersey or the Attorney General's representative or designee.
- 22 j. "Commission" means the Commission on Civil Rights
23 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 24 k. "Director" means the Director of the Division on Civil
25 Rights.
- 26 l. "A place of public accommodation" shall include, but not be
27 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
28 summer camp, day camp, or resort camp, whether for entertainment
29 of transient guests or accommodation of those seeking health,
30 recreation, or rest; any producer, manufacturer, wholesaler,
31 distributor, retail shop, store, establishment, or concession dealing
32 with goods or services of any kind; any restaurant, eating house, or
33 place where food is sold for consumption on the premises; any
34 place maintained for the sale of ice cream, ice and fruit preparations
35 or their derivatives, soda water or confections, or where any
36 beverages of any kind are retailed for consumption on the premises;
37 any garage, any public conveyance operated on land or water or in
38 the air or any stations and terminals thereof; any bathhouse,
39 boardwalk, or seashore accommodation; any auditorium, meeting
40 place, or hall; any theatre, motion-picture house, music hall, roof
41 garden, skating rink, swimming pool, amusement and recreation
42 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
43 pool parlor, or other place of amusement; any comfort station; any
44 dispensary, clinic, or hospital; any public library; and any
45 kindergarten, primary and secondary school, trade or business
46 school, high school, academy, college and university, or any
47 educational institution under the supervision of the State Board of
48 Education or the Commissioner of Education of the State of New

1 Jersey. Nothing herein contained shall be construed to include or to
2 apply to any institution, bona fide club, or place of accommodation,
3 which is in its nature distinctly private; nor shall anything herein
4 contained apply to any educational facility operated or maintained
5 by a bona fide religious or sectarian institution, and the right of a
6 natural parent or one in loco parentis to direct the education and
7 upbringing of a child under his control is hereby affirmed; nor shall
8 anything herein contained be construed to bar any private secondary
9 or post-secondary school from using in good faith criteria other than
10 race, creed, color, national origin, ancestry, gender identity, or
11 expression or affectional or sexual orientation in the admission of
12 students.

13 m. "A publicly assisted housing accommodation" shall include
14 all housing built with public funds or public assistance pursuant to
15 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
16 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,
17 c.184, and all housing financed in whole or in part by a loan,
18 whether or not secured by a mortgage, the repayment of which is
19 guaranteed or insured by the federal government or any agency
20 thereof.

21 n. The term "real property" includes real estate, lands,
22 tenements and hereditaments, corporeal and incorporeal, and
23 leaseholds, provided, however, that, except as to publicly assisted
24 housing accommodations and except as set forth in paragraphs (2)
25 and (3) of subsection g. and paragraph (3) of subsection h. of
26 section 11 of P.L.1945, c.169 (C.10:5-12), the provisions of this act
27 shall not apply to the rental **【**: (1) of a single apartment or flat in a
28 two-family dwelling, the other occupancy unit of which is occupied
29 by the owner as a residence; or (2)**】** of a room or rooms to another
30 person or persons by the owner or occupant of a one-family
31 dwelling occupied by the owner or occupant as a residence at the
32 time of such rental. Nothing herein contained shall be construed to
33 bar any religious or denominational institution or organization, or
34 any organization operated for charitable or educational purposes,
35 which is operated, supervised, or controlled by or in connection
36 with a religious organization, in the sale, lease, or rental of real
37 property, from limiting admission to or giving preference to persons
38 of the same religion or denomination or from making such selection
39 as is calculated by such organization to promote the religious
40 principles for which it is established or maintained. Nor does any
41 provision under this act regarding discrimination on the basis of
42 familial status apply with respect to housing for older persons.

43 o. "Real estate broker" includes a person, firm, or corporation
44 who, for a fee, commission, or other valuable consideration, or by
45 reason of promise or reasonable expectation thereof, lists for sale,
46 sells, exchanges, buys or rents, or offers or attempts to negotiate a
47 sale, exchange, purchase, or rental of real estate or an interest
48 therein, or collects or offers or attempts to collect rent for the use of

1 real estate, or solicits for prospective purchasers or assists or directs
2 in the procuring of prospects or the negotiation or closing of any
3 transaction which does or is contemplated to result in the sale,
4 exchange, leasing, renting, or auctioning of any real estate, or
5 negotiates, or offers or attempts or agrees to negotiate a loan
6 secured or to be secured by mortgage or other encumbrance upon or
7 transfer of any real estate for others; or any person who, for
8 pecuniary gain or expectation of pecuniary gain conducts a public
9 or private competitive sale of lands or any interest in lands. In the
10 sale of lots, the term "real estate broker" shall also include any
11 person, partnership, association, or corporation employed by or on
12 behalf of the owner or owners of lots or other parcels of real estate,
13 at a stated salary, or upon a commission, or upon a salary and
14 commission or otherwise, to sell such real estate, or any parts
15 thereof, in lots or other parcels, and who shall sell or exchange, or
16 offer or attempt or agree to negotiate the sale or exchange, of any
17 such lot or parcel of real estate.

18 p. "Real estate salesperson" includes any person who, for
19 compensation, valuable consideration or commission, or other thing
20 of value, or by reason of a promise or reasonable expectation
21 thereof, is employed by and operates under the supervision of a
22 licensed real estate broker to sell or offer to sell, buy or offer to buy
23 or negotiate the purchase, sale, or exchange of real estate, or offers
24 or attempts to negotiate a loan secured or to be secured by a
25 mortgage or other encumbrance upon or transfer of real estate, or to
26 lease or rent, or offer to lease or rent any real estate for others, or to
27 collect rents for the use of real estate, or to solicit for prospective
28 purchasers or lessees of real estate, or who is employed by a
29 licensed real estate broker to sell or offer to sell lots or other parcels
30 of real estate, at a stated salary, or upon a commission, or upon a
31 salary and commission, or otherwise to sell real estate, or any parts
32 thereof, in lots or other parcels.

33 q. "Disability" means physical or sensory disability, infirmity,
34 malformation, or disfigurement which is caused by bodily injury,
35 birth defect, or illness including epilepsy and other seizure
36 disorders, and which shall include, but not be limited to, any degree
37 of paralysis, amputation, lack of physical coordination, blindness or
38 visual impairment, deafness or hearing impairment, muteness or
39 speech impairment, or physical reliance on a service or guide dog,
40 wheelchair, or other remedial appliance or device, or any mental,
41 psychological, or developmental disability, including autism
42 spectrum disorders, resulting from anatomical, psychological,
43 physiological, or neurological conditions which prevents the typical
44 exercise of any bodily or mental functions or is demonstrable,
45 medically or psychologically, by accepted clinical or laboratory
46 diagnostic techniques. Disability shall also mean AIDS or HIV
47 infection.

- 1 r. "Blind person" or "person who is blind" means any
2 individual whose central visual acuity does not exceed 20/200 in the
3 better eye with correcting lens or whose visual acuity is better than
4 20/200 if accompanied by a limit to the field of vision in the better
5 eye to such a degree that its widest diameter subtends an angle of
6 no greater than 20 degrees.
- 7 s. "Guide dog" means a dog used to assist persons who are
8 deaf, or which is fitted with a special harness so as to be suitable as
9 an aid to the mobility of a person who is blind, and is used by a
10 person who is blind and has satisfactorily completed a specific
11 course of training in the use of such a dog, and has been trained by
12 an organization generally recognized by agencies involved in the
13 rehabilitation of persons with disabilities, including, but not limited
14 to, those persons who are blind or deaf, as reputable and competent
15 to provide dogs with training of this type.
- 16 t. "Guide or service dog trainer" means any person who is
17 employed by an organization generally recognized by agencies
18 involved in the rehabilitation of persons with disabilities, including,
19 but not limited to, those persons who are blind, have visual
20 impairments, or are deaf or have hearing impairments, as reputable
21 and competent to provide dogs with training, as defined in this
22 section, and who is actually involved in the training process.
- 23 u. "Housing accommodation" means any publicly assisted
24 housing accommodation or any real property, or portion thereof,
25 which is used or occupied, or is intended, arranged, or designed to
26 be used or occupied, as the home, residence, or sleeping place of
27 one or more persons, but shall not include any single family
28 residence the occupants of which rent, lease, or furnish for
29 compensation not more than one room therein.
- 30 v. "Public facility" means any place of public accommodation
31 and any street, highway, sidewalk, walkway, public building, and
32 any other place or structure to which the general public is regularly,
33 normally, or customarily permitted or invited.
- 34 w. "Deaf person" or "person who is deaf" means any person
35 whose hearing is so severely impaired that the person is unable to
36 hear and understand conversational speech through the unaided ear
37 alone, and who must depend primarily on an assistive listening
38 device or visual communication such as writing, lip reading, sign
39 language, and gestures.
- 40 x. "Atypical hereditary cellular or blood trait" means sickle cell
41 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
42 fibrosis trait.
- 43 y. "Sickle cell trait" means the condition wherein the major
44 natural hemoglobin components present in the blood of the
45 individual are hemoglobin A (normal) and hemoglobin S (sickle
46 hemoglobin) as defined by standard chemical and physical analytic
47 techniques, including electrophoresis; and the proportion of
48 hemoglobin A is greater than the proportion of hemoglobin S or one

1 natural parent of the individual is shown to have only normal
2 hemoglobin components (hemoglobin A, hemoglobin A2,
3 hemoglobin F) in the normal proportions by standard chemical and
4 physical analytic tests.

5 z. "Hemoglobin C trait" means the condition wherein the major
6 natural hemoglobin components present in the blood of the
7 individual are hemoglobin A (normal) and hemoglobin C as defined
8 by standard chemical and physical analytic techniques, including
9 electrophoresis; and the proportion of hemoglobin A is greater than
10 the proportion of hemoglobin C or one natural parent of the
11 individual is shown to have only normal hemoglobin components
12 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
13 proportions by standard chemical and physical analytic tests.

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

17 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
18 which in combination with another similar gene results in the
19 chronic hereditary disease Tay-Sachs.

20 cc. "Cystic fibrosis trait" means the presence of the cystic
21 fibrosis gene which in combination with another similar gene
22 results in the chronic hereditary disease cystic fibrosis.

23 dd. "Service dog" means any dog individually trained to the
24 requirements of a person with a disability including, but not limited
25 to minimal protection work, rescue work, pulling a wheelchair or
26 retrieving dropped items. This term shall include a "seizure dog"
27 trained to alert or otherwise assist persons with epilepsy or other
28 seizure disorders.

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

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

34 gg. "HIV infection" means infection with the human
35 immunodeficiency virus or any other related virus identified as a
36 probable causative agent of AIDS.

37 hh. "Affectional or sexual orientation" means male or female
38 heterosexuality, homosexuality, or bisexuality by inclination,
39 practice, identity, or expression, having a history thereof or being
40 perceived, presumed, or identified by others as having such an
41 orientation.

42 ii. "Heterosexuality" means affectional, emotional, or physical
43 attraction or behavior which is primarily directed towards persons
44 of the other gender.

45 jj. "Homosexuality" means affectional, emotional, or physical
46 attraction or behavior which is primarily directed towards persons
47 of the same gender.

- 1 kk. "Bisexuality" means affectional, emotional, or physical
2 attraction or behavior which is directed towards persons of either
3 gender.
- 4 ll. "Familial status" means being the natural parent of a child,
5 the adoptive parent of a child, the resource family parent of a child,
6 having a "parent and child relationship" with a child as defined by
7 State law, or having sole or joint legal or physical custody, care,
8 guardianship, or visitation with a child, or any person who is
9 pregnant or is in the process of securing legal custody of any
10 individual who has not attained the age of 18 years.
- 11 mm. "Housing for older persons" means housing:
- 12 (1) provided under any State program that the Attorney General
13 determines is specifically designed and operated to assist persons
14 who are elderly (as defined in the State program); or provided under
15 any federal program that the United States Department of Housing
16 and Urban Development determines is specifically designed and
17 operated to assist persons who are elderly (as defined in the federal
18 program); or
- 19 (2) intended for, and solely occupied by, persons 62 years of age
20 or older; or
- 21 (3) intended and operated for occupancy by at least one person
22 55 years of age or older per unit. In determining whether housing
23 qualifies as housing for older persons under this paragraph, the
24 Attorney General shall adopt regulations which require at least the
25 following factors:
- 26 (a) the existence of significant facilities and services
27 specifically designed to meet the physical or social needs of older
28 persons, or if the provision of such facilities and services is not
29 practicable, that such housing is necessary to provide important
30 housing opportunities for older persons; and
- 31 (b) that at least 80 percent of the units are occupied by at least
32 one person 55 years of age or older per unit; and
- 33 (c) the publication of, and adherence to, policies and procedures
34 which demonstrate an intent by the owner or manager to provide
35 housing for persons 55 years of age or older.
- 36 Housing shall not fail to meet the requirements for housing for
37 older persons by reason of: persons residing in such housing as of
38 September 13, 1988 not meeting the age requirements of this
39 subsection, provided that new occupants of such housing meet the
40 age requirements of this subsection; or unoccupied units, provided
41 that such units are reserved for occupancy by persons who meet the
42 age requirements of this subsection.
- 43 nn. "Genetic characteristic" means any inherited gene or
44 chromosome, or alteration thereof, that is scientifically or medically
45 believed to predispose an individual to a disease, disorder, or
46 syndrome, or to be associated with a statistically significant
47 increased risk of development of a disease, disorder, or syndrome.

- 1 oo. "Genetic information" means the information about genes,
2 gene products, or inherited characteristics that may derive from an
3 individual or family member.
- 4 pp. "Genetic test" means a test for determining the presence or
5 absence of an inherited genetic characteristic in an individual,
6 including tests of nucleic acids such as DNA, RNA, and
7 mitochondrial DNA, chromosomes, or proteins in order to identify a
8 predisposing genetic characteristic.
- 9 qq. "Domestic partnership" means a domestic partnership
10 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).
- 11 **[**rr. "Gender identity or expression" means having or being
12 perceived as having a gender related identity or expression whether
13 or not stereotypically associated with a person's assigned sex at
14 birth.**]** (Deleted by amendment, P.L. , c. (pending before the
15 Legislature as this bill)
- 16 ss. "Civil Union" means a legally recognized union of two
17 eligible individuals established pursuant to R.S.37:1-1 et seq. and
18 P.L.2006, c.103 (C.37:1-28 et al.).
- 19 tt. "Premium wages" means additional remuneration for night,
20 weekend, or holiday work, or for standby or irregular duty.
- 21 uu. "Premium benefit" means an employment benefit, such as
22 seniority, group life insurance, health insurance, disability
23 insurance, sick leave, annual leave, or an educational or pension
24 benefit that is greater than the employment benefit due the
25 employee for an equivalent period of work performed during the
26 regular work schedule of the employee.
- 27 vv. "Race" is inclusive of traits historically associated with race,
28 including, but not limited to, hair texture, hair types, and protective
29 hairstyles.
- 30 ww. "Protective hairstyles" includes, but is not limited to, such
31 hairstyles as braids, locks, and twists.
- 32 xx. "Family member" means a child, parent, parent-in-law,
33 sibling, grandparent, grandchild, spouse, partner in a civil union
34 couple, domestic partner, or any other individual related by blood to
35 the person, and any other individual that the person shows to have a
36 close association with the person which is the equivalent of a family
37 relationship.
- 38 yy. "Source of lawful income" means any source of income
39 lawfully obtained or any source of rental or mortgage payment
40 lawfully obtained, including, but not limited to, any federal, State,
41 or local public assistance or housing assistance voucher or funds,
42 including Section 8 housing choice vouchers, temporary rental
43 assistance programs or State rental assistance programs; rental
44 assistance funds provided by a nonprofit organization; federal,
45 State, or local benefits, including disability benefits and veterans'
46 benefits; court-ordered payments, including, but not limited to,
47 child support, alimony, or damages; and any form of lawful
48 currency tendered, without regard to whether such currency is

1 tendered in the form of cash, check, money order, or other lawful
2 means.

3 zz. “Consumer credit history” means an individual’s
4 creditworthiness, credit standing, credit capacity, and borrowing or
5 payment history, as indicated by: (1) a consumer credit report; (2) a
6 credit score; or (3) information a person obtains directly from the
7 individual regarding (i) details about credit accounts, including the
8 individual’s number of credit accounts, late or missed payments,
9 charged-off debts, items in collections, credit limit, or prior credit
10 report inquiries, or (ii) bankruptcies, judgments, or liens. As used
11 in this subsection, a consumer credit report shall include any written
12 or other communication of any information by a consumer reporting
13 agency that bears on a consumer’s creditworthiness, credit standing,
14 credit capacity or credit history.

15 aaa. “Criminal record” means information about individuals
16 collected by criminal justice agencies consisting of identifiable
17 descriptions and notations of arrests, detentions, indictments,
18 criminal complaints or other formal criminal charges, and any
19 disposition arising therefrom, including acquittal, sentencing,
20 correctional supervision, release or conviction, including, but not
21 limited to, any conviction or sentence arising from a verdict or plea
22 of guilty or nolo contendere, including a sentence of incarceration, a
23 suspended sentence, a sentence of probation, or a sentence of
24 conditional discharge.²

25 (cf: P.L.2019, c.436, s.2)]³

26
27 ³[²17. Section 8 of P.L.1945, c.169 (C.10:5-8) is amended to
28 read as follows:

29 8. The Attorney General shall:

30 a. Exercise all powers of the division not vested in the
31 commission.

32 b. Administer the work of the division.

33 c. Organize the division into sections, which shall include but
34 not be limited to a section which shall receive, investigate, and act
35 upon complaints alleging discrimination against persons because of
36 race, creed, color, national origin, immigration or citizenship status,
37 ancestry, age, marital status, affectional or sexual orientation,
38 gender identity **[or]** gender expression, familial status, disability,
39 nationality **[or]** sex, criminal record or source of lawful income
40 used for rental or mortgage payments, or because of their liability
41 for service in the Armed Forces of the United States; and another
42 which shall, in order to eliminate prejudice and to further good will
43 among the various racial and religious and nationality groups in this
44 State, study, recommend, prepare and implement, in cooperation
45 with such other departments of the State Government or any other
46 agencies, groups or entities both public and private, such
47 educational and human relations programs as are consonant with the

- 1 objectives of this act; and prescribe the organization of said sections
2 and the duties of **[his]** the Attorney General's subordinates and
3 assistants.
- 4 d. Appoint a Director of the Division on Civil Rights, who
5 shall act for the Attorney General, in the Attorney General's place
6 and with the Attorney General's powers, which appointment shall be
7 subject to the approval of the commission and the Governor, a
8 deputy director and such assistant directors, field representatives
9 and assistants as may be necessary for the proper administration of
10 the division and fix their compensation within the limits of
11 available appropriations. The director, deputy director, assistant
12 directors, field representatives and assistants shall not be subject to
13 the Civil Service Act and shall be removable by the Attorney
14 General at will.
- 15 e. Appoint such clerical force and employees as the Attorney
16 General may deem necessary and fix their duties, all of whom shall
17 be subject to the Civil Service Act.
- 18 f. Maintain liaison with local and State officials and agencies
19 concerned with matters related to the work of the division.
- 20 g. Adopt, promulgate, amend, and rescind suitable rules and
21 regulations to carry out the provisions of this act.
- 22 h. Conduct investigations, receive complaints and conduct
23 hearings thereon other than those complaints received and hearings
24 held pursuant to the provisions of this act.
- 25 i. In connection with any investigation or hearing held
26 pursuant to the provisions of this act, subpoena witnesses, compel
27 their attendance, administer oaths, take the testimony of any person,
28 under oath, and, in connection therewith, require the production for
29 examination of any books or papers relating to any subject matter
30 under investigation or in question by the division and conduct such
31 discovery procedures which may include the taking of
32 interrogatories and oral depositions as shall be deemed necessary by
33 the Attorney General in any investigation. The Attorney General
34 may make rules as to the issuance of subpoenas by the director.
35 The failure of any witness when duly subpoenaed to attend, give
36 testimony, or produce evidence shall be punishable by the Superior
37 Court of New Jersey in the same manner as such failure is
38 punishable by such court in a case therein pending.
- 39 j. Issue such publications and such results of investigations
40 and research tending to promote good will and to minimize or
41 eliminate discrimination because of race, creed, color, national
42 origin, immigration or citizenship status, ancestry, age, marital
43 status, affectional or sexual orientation, gender identity **[or]** ,
44 gender expression, familial status, disability, nationality **[or]** , sex,
45 criminal record or source of lawful income used for rental or
46 mortgage payments, as the commission shall direct, subject to
47 available appropriations.

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

3 l. Appoint, subject to the approval of the commission, a panel
4 of not more than five hearing examiners, each of whom shall be
5 duly licensed to practice law in this State for a period of at least five
6 years, and each to serve for a term of one year and until his
7 successor is appointed, any one of whom the director may designate
8 in his place to conduct any hearing and recommend findings of fact
9 and conclusions of law. The hearing examiners shall receive such
10 compensation as may be determined by the Attorney General,
11 subject to available appropriations.²

12 (cf: P.L.2006, c.100, s.6)]³

13

14 ³[²18. Section 1 of P.L.1954, c.198 (C.10:5-9.1) is amended to
15 read as follows:

16 1. The Division on Civil Rights in the Department of Law and
17 Public Safety shall enforce the laws of this State against
18 discrimination in housing built with, or leased with the assistance
19 of, public funds or public assistance, pursuant to any law, and in
20 real property, as defined in the law hereby supplemented, because
21 of race, religious principles, color, national origin, immigration or
22 citizenship status, ancestry, marital status, affectional or sexual
23 orientation, familial status, disability, liability for service in the
24 Armed Forces of the United States, nationality, sex, gender identity
25 **[or]** , gender expression, criminal record or source of lawful
26 income used for rental or mortgage payments. The said laws shall
27 be so enforced in the manner prescribed in **[the act to which this act**
28 **is a supplement]** P.L.1945, c.169 (C.10:5-1 et seq.).²

29 (cf: P.L.2017, c.184, s.2)]³

30

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

33 9. The commission shall:

34 a. Consult with and advise the Attorney General with respect to
35 the work of the division.

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

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

40 The mayors or chief executive officers of the municipalities in
41 the State may appoint local commissions on civil rights to aid in
42 effectuating the purposes of this act. Such local commissions shall
43 be composed of representative citizens serving without
44 compensation. Such commissions shall attempt to foster through
45 community effort or otherwise, good will, cooperation and
46 conciliation among the groups and elements of the inhabitants of
47 the community, and they may be empowered by the local governing

1 bodies to make recommendations to them for the development of
2 policies and procedures in general and for programs of formal and
3 informal education that will aid in eliminating all types of
4 discrimination based on race, creed, color, national origin,
5 immigration or citizenship status, ancestry, age, marital status,
6 affectional or sexual orientation, gender identity **[or]** , gender
7 expression, familial status, disability, nationality **[or]** , sex , or
8 criminal record.²
9 (cf: P.L.2006, c.100, s.8)**】**³
10

11 ³**】**²20. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to
12 read:

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

15 a. For an employer, because of the race, creed, color, national
16 origin, ancestry, age, marital status, civil union status, domestic
17 partnership status, affectional or sexual orientation, genetic
18 information, pregnancy or breastfeeding, sex, gender identity or
19 expression, disability or atypical hereditary cellular or blood trait of
20 any individual, or because of the liability for service in the Armed
21 Forces of the United States or the nationality of any individual, or
22 because of the refusal to submit to a genetic test or make available
23 the results of a genetic test to an employer, to refuse to hire or
24 employ or to bar or to discharge or require to retire, unless justified
25 by lawful considerations other than age, from employment such
26 individual or to discriminate against such individual in
27 compensation or in terms, conditions or privileges of employment;
28 provided, however, it shall not be an unlawful employment practice
29 to refuse to accept for employment an applicant who has received a
30 notice of induction or orders to report for active duty in the armed
31 forces; provided further that nothing herein contained shall be
32 construed to bar an employer from refusing to accept for
33 employment 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 business or enterprise; provided further that nothing herein
37 contained shall be construed to bar an employer from refusing to
38 accept for employment or to promote any person over 70 years of
39 age; provided further that it shall not be an unlawful employment
40 practice for a club exclusively social or fraternal to use club
41 membership as a uniform qualification for employment, or for a
42 religious association or organization to utilize religious affiliation
43 as a uniform qualification in the employment of clergy, religious
44 teachers or other employees engaged in the religious activities of
45 the association or organization, or in following the tenets of its
46 religion in establishing and utilizing criteria for employment of an
47 employee; provided further, that it shall not be an unlawful

1 employment practice to require the retirement of any employee
2 who, for the two-year period immediately before retirement, is
3 employed in a bona fide executive or a high policy-making position,
4 if that employee is entitled to an immediate non-forfeitable annual
5 retirement benefit from a pension, profit sharing, savings or
6 deferred retirement plan, or any combination of those plans, of the
7 employer of that employee which equals in the aggregate at least
8 \$27,000.00; and provided further that an employer may restrict
9 employment to citizens of the United States where such restriction
10 is required by federal law or is otherwise necessary to protect the
11 national interest.

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

16 For the purposes of this subsection, a "bona fide executive" is a
17 top level employee who exercises substantial executive authority
18 over a significant number of employees and a large volume of
19 business. A "high policy-making position" is a position in which a
20 person plays a significant role in developing policy and in
21 recommending the implementation thereof.

22 For the purposes of this subsection, an unlawful employment
23 practice occurs, with respect to discrimination in compensation or
24 in the financial terms or conditions of employment, each occasion
25 that an individual is affected by application of a discriminatory
26 compensation decision or other practice, including, but not limited
27 to, each occasion that wages, benefits, or other compensation are
28 paid, resulting in whole or in part from the decision or other
29 practice.

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

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

47 b. For a labor organization, because of the race, creed, color,
48 national origin, ancestry, age, marital status, civil union status,

1 domestic partnership status, affectional or sexual orientation,
2 gender identity or expression, disability, pregnancy or
3 breastfeeding, or sex of any individual, or because of the liability
4 for service in the Armed Forces of the United States or nationality
5 of any individual, to exclude or to expel from its membership such
6 individual or to discriminate in any way against any of its members,
7 against any applicant for, or individual included in, any apprentice
8 or other training program or against any employer or any individual
9 employed by an employer; provided, however, that nothing herein
10 contained shall be construed to bar a labor organization from
11 excluding from its apprentice or other training programs any person
12 on the basis of sex in those certain circumstances where sex is a
13 bona fide occupational qualification reasonably necessary to the
14 normal operation of the particular apprentice or other training
15 program.

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

29 d. For any person to take reprisals against any person because
30 that person has opposed any practices or acts forbidden under this
31 act or because that person has sought legal advice regarding rights
32 under this act, shared relevant information with legal counsel,
33 shared information with a governmental entity, or filed a complaint,
34 testified or assisted in any proceeding under this act or to coerce,
35 intimidate, threaten or interfere with any person in the exercise or
36 enjoyment of, or on account of that person having aided or
37 encouraged any other person in the exercise or enjoyment of, any
38 right granted or protected by this act.

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

42 f. (1) For any owner, lessee, proprietor, manager,
43 superintendent, agent, or employee of any place of public
44 accommodation directly or indirectly to refuse, withhold from or
45 deny to any person any of the accommodations, advantages,
46 facilities or privileges thereof, or to discriminate against any person
47 in the furnishing thereof, or directly or indirectly to publish,
48 circulate, issue, display, post or mail any written or printed

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

35 (2) Notwithstanding the definition of "a place of public
36 accommodation" as set forth in subsection 1. of section 5 of
37 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,
38 manager, superintendent, agent, or employee of any private club or
39 association to directly or indirectly refuse, withhold from or deny to
40 any individual who has been accepted as a club member and has
41 contracted for or is otherwise entitled to full club membership any
42 of the accommodations, advantages, facilities or privileges thereof,
43 or to discriminate against any member in the furnishing thereof on
44 account of the race, creed, color, national origin, ancestry, marital
45 status, civil union status, domestic partnership status, pregnancy or
46 breastfeeding, sex, gender identity, or expression, affectional or
47 sexual orientation, disability, liability for service in the Armed
48 Forces of the United States or nationality of such person.

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

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

14 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
15 to deny to or withhold from any person or group of persons any real
16 property or part or portion thereof because of race, creed, color,
17 national origin, immigration or citizenship status except to the
18 extent permitted under section 14 of P.L. , c. (C.) (pending
19 before the Legislature as this bill), ancestry, marital status, civil
20 union status, domestic partnership status, pregnancy or
21 breastfeeding, sex, gender identity **[or]** , gender expression,
22 affectional or sexual orientation, familial status, disability, liability
23 for service in the Armed Forces of the United States, nationality,
24 criminal record except to the extent permitted under sections 1
25 through 12 of P.L. , c. (C.) (pending before the Legislature
26 as this bill), or source of lawful income used for rental or mortgage
27 payments;

28 (2) To discriminate against any person or group of persons
29 because of race, creed, color, national origin, immigration or
30 citizenship status except to the extent permitted under section 14 of
31 P.L. , c. (C.) (pending before the Legislature as this bill),
32 ancestry, marital status, civil union status, domestic partnership
33 status, pregnancy or breastfeeding, sex, gender identity **[or]** ,
34 gender expression, affectional or sexual orientation, familial status,
35 disability, liability for service in the Armed Forces of the United
36 States, nationality, criminal record except to the extent permitted
37 under sections 1 through 12 of P.L. , c. (C.) (pending before
38 the Legislature as this bill), or source of lawful income used for
39 rental or mortgage payments in the terms, conditions or privileges
40 of the sale, rental or lease of any real property or part or portion
41 thereof or in the furnishing of facilities or services in connection
42 therewith; notwithstanding subsection n. of P.L.1945, c.169
43 (C.10:5-5), for purposes of claims brought under this subsection
44 alleging that any owner or other person having the right of
45 ownership or possession is liable for an unlawful discrimination
46 because an individual was subjected to unlawful harassment based
47 on any category protected under this paragraph, the definition of
48 “real property” shall include the rental of a room or rooms to

1 another person or persons by the owner or occupant of a one-family
2 dwelling occupied by the owner or occupant as a residence at the
3 time of such rental;

4 (3) To print, publish, circulate, issue, display, post or mail, or
5 cause to be printed, published, circulated, issued, displayed, posted
6 or mailed any statement, advertisement, publication or sign, or to
7 use any form of application for the purchase, rental, lease,
8 assignment or sublease of any real property or part or portion
9 thereof or, notwithstanding subsection n. of P.L.1945, c.169
10 (C.10:5-5), for the rental of a room or rooms to another person or
11 persons by the owner or occupant of a one-family dwelling
12 occupied by the owner or occupant as a residence at the time of
13 such rental, or to make any record or inquiry in connection with the
14 prospective purchase, rental, lease, assignment, or sublease of any
15 real property, or part or portion thereof or, notwithstanding
16 subsection n. of P.L.1945, c.169 (C.10:5-5), for the rental of a room
17 or rooms to another person or persons by the owner or occupant of a
18 one-family dwelling occupied by the owner or occupant as a
19 residence at the time of such rental, which expresses, directly or
20 indirectly, any limitation, specification or discrimination as to race,
21 creed, color, national origin, immigration or citizenship status
22 except to the extent permitted under section 14 of P.L. _____,
23 c. (C. _____)(pending before the Legislature as this bill), ancestry,
24 marital status, civil union status, domestic partnership status,
25 pregnancy or breastfeeding, sex, gender identity **[or]** gender
26 expression, affectional or sexual orientation, familial status,
27 disability, liability for service in the Armed Forces of the United
28 States, nationality, criminal record except to the extent permitted
29 under sections 1 through 12 of P.L. _____, c. (C. _____) (pending before
30 the Legislature as this bill), or source of lawful income used for
31 rental or mortgage payments, or any intent to make any such
32 limitation, specification or discrimination, and the production of
33 any such statement, advertisement, publicity, sign, form of
34 application, record, or inquiry purporting to be made by any such
35 person shall be presumptive evidence in any action that the same
36 was authorized by such person; provided, however, that nothing
37 contained in this subsection shall be construed to bar any person
38 from refusing to sell, rent, lease, assign or sublease or from
39 advertising or recording a qualification as to **[sex]** gender for any
40 room, apartment, flat in a dwelling or residential facility which is
41 planned exclusively for and occupied by individuals of one **[sex]**
42 gender to any individual of **[the exclusively opposite sex]** a
43 different gender on the basis of sex provided individuals shall be
44 qualified based on their gender identity or gender expression;

45 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
46 to deny to or withhold from any person or group of persons any real
47 property or part or portion thereof because of the source of any
48 lawful income received by the person or the source of any lawful

1 rent payment to be paid for the real property, including, but not
 2 limited to, by refusing to accept as payment any source of lawful
 3 income or by applying, in assessing eligibility for the rental of
 4 housing, any minimum income requirement or financial or
 5 consumer credit history-related standard that is not based only on
 6 the portion of the rent to be paid by the tenant; [or]

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

14 (6) To refuse to rent or lease, or to refuse to offer to rent or
 15 lease, any real property or portion thereof to a prospective tenant
 16 because the prospective tenant was involved in a past or pending
 17 landlord-tenant action unless such action resulted in a final
 18 judgment against the prospective tenant within three years of the
 19 effective date of the prospective rental or lease agreement, and
 20 subject to the provisions of section 13 of P.L. _____,
 21 c. (C. _____)(pending before the Legislature as this bill);

22 (7) To make any inquiry regarding or based on the immigration
 23 or citizenship status of a tenant, occupant, or prospective tenant or
 24 occupant of residential rental property, or to require that any such
 25 person disclose or make any statement, representation, or
 26 certification concerning such person's immigration or citizenship
 27 status, except to the extent permitted under section 14 of P.L. _____,
 28 c. (C. _____) (pending before the Legislature as this bill); or

29 (8) To threaten to disclose or actually disclose information
 30 regarding or relating to the immigration or citizenship status of a
 31 tenant, occupant, prospective tenant or occupant, or other person
 32 known to be associated with a tenant, occupant, or prospective
 33 tenant or occupant, for the purpose of, or with the intent of,
 34 harassing or intimidating a tenant, occupant, or prospective tenant
 35 or occupant; influencing a tenant or occupant to vacate a dwelling;
 36 recovering possession of a dwelling from a tenant or occupant; or
 37 taking reprisals against a tenant, occupant, or prospective tenant or
 38 occupant under subsection d. of this section.

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

41 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
 42 sale, rental, lease, assignment, or sublease any real property or part
 43 or portion thereof to any person or group of persons because of
 44 race, creed, color, national origin, immigration or citizenship status
 45 except to the extent permitted under section 14 of P.L. _____,
 46 c. (C. _____) (pending before the Legislature as this bill), ancestry,
 47 marital status, civil union status, domestic partnership status,
 48 familial status, pregnancy or breastfeeding, sex, gender identity

1 **[or]** , gender expression, affectional or sexual orientation, liability
 2 for service in the Armed Forces of the United States,
 3 disability, nationality, criminal record except to the extent
 4 permitted under sections 1 through 12 of P.L. , c. (C.)
 5 (pending before the Legislature as this bill), or source of lawful
 6 income used for rental or mortgage payments, or to represent that
 7 any real property or portion thereof is not available for inspection,
 8 sale, rental, lease, assignment, or sublease when in fact it is so
 9 available, or otherwise to deny or withhold any real property or any
 10 part or portion of facilities thereof to or from any person or group of
 11 persons because of race, creed, color, national origin, immigration
 12 or citizenship status except to the extent permitted under section 14
 13 of P.L. , c. (C.) (pending before the Legislature as this bill),
 14 ancestry, marital status, civil union status, domestic partnership
 15 status, familial status, pregnancy or breastfeeding, sex, gender
 16 identity **[or]**, gender expression, affectional or sexual orientation,
 17 disability, liability for service in the Armed Forces of the United
 18 States, **[or]** nationality, criminal record except to the extent
 19 permitted under sections 1 through 12 of P.L. , c. (C.)
 20 (pending before the Legislature as this bill), or source of lawful
 21 income used for rental or mortgage payments;

22 (2) To discriminate against any person because of race, creed,
 23 color, national origin, immigration or citizenship status except to
 24 the extent permitted under section 14 of P.L. ,
 25 c. (C.) (pending before the Legislature as this bill), ancestry,
 26 marital status, civil union status, domestic partnership status,
 27 familial status, pregnancy or breastfeeding, sex, gender identity
 28 **[or]** , gender expression, affectional or sexual orientation,
 29 disability, liability for service in the Armed Forces of the United
 30 States, nationality, criminal record except to the extent permitted
 31 under sections 1 through 12 of P.L. , c. (C.) (pending before
 32 the Legislature as this bill), or source of lawful income used for
 33 rental or mortgage payments in the terms, conditions or privileges
 34 of the sale, rental, lease, assignment or sublease of any real property
 35 or part or portion thereof or in the furnishing of facilities or services
 36 in connection therewith;

37 (3) To print, publish, circulate, issue, display, post, or mail, or
 38 cause to be printed, published, circulated, issued, displayed, posted
 39 or mailed any statement, advertisement, publication or sign, or to
 40 use any form of application for the purchase, rental, lease,
 41 assignment, or sublease of any real property or part or portion
 42 thereof or, notwithstanding subsection n. of P.L.1945, c.169
 43 (C.10:5-5), for the rental of a room or rooms to another person or
 44 persons by the owner or occupant of a one-family dwelling
 45 occupied by the owner or occupant as a residence at the time of
 46 such rental, or to make any record or inquiry in connection with the
 47 prospective purchase, rental, lease, assignment, or sublease of any
 48 real property or part or portion thereof or, notwithstanding

1 subsection n. of P.L.1945, c.169 (C.10:5-5), for the rental of a
2 room or rooms to another person or persons by the owner or
3 occupant of a one-family dwelling occupied by the owner or
4 occupant as a residence at the time of such rental, which expresses,
5 directly or indirectly, any limitation, specification or discrimination
6 as to race, creed, color, national origin, immigration or citizenship
7 status except to the extent permitted under section 14 of P.L. ,
8 c. (C.) (pending before the Legislature as this bill), ancestry,
9 marital status, civil union status, domestic partnership status,
10 familial status, pregnancy or breastfeeding, sex, gender identity
11 **【or】** , gender expression, affectional or sexual orientation,
12 disability, liability for service in the Armed Forces of the United
13 States, nationality, criminal record except to the extent permitted
14 under sections 1 through 12 of P.L. , c. (C.) (pending before
15 the Legislature as this bill), or source of lawful income used for
16 rental or mortgage payments or any intent to make any such
17 limitation, specification or discrimination, and the production of
18 any such statement, advertisement, publicity, sign, form of
19 application, record, or inquiry purporting to be made by any such
20 person shall be presumptive evidence in any action that the same
21 was authorized by such person; provided, however, that nothing
22 contained in this subsection h., shall be construed to bar any person
23 from refusing to sell, rent, lease, assign or sublease or from
24 advertising or recording a qualification as to **【sex】** gender for any
25 room, apartment, flat in a dwelling or residential facility which is
26 planned exclusively for and occupied exclusively by individuals of
27 one **【sex】** gender to any individual of **【the opposite sex】** a different
28 gender on the basis of sex or gender, provided individuals shall be
29 qualified based on their gender identity or gender expression;

30 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
31 to deny to or withhold from any person or group of persons any real
32 property or part or portion thereof because of the source of any
33 lawful income received by the person or the source of any lawful
34 rent payment to be paid for the real property, including, but not
35 limited to, by refusing to accept as payment any source of lawful
36 income, or by applying, in assessing eligibility for the rental of
37 housing, any minimum income requirement or financial or
38 consumer credit history-related standard that is not based only on
39 the portion of the rent to be paid by the tenant; **【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 (6) To refuse to rent or lease, or to refuse to offer to rent or
48 lease, any real property or portion thereof to a prospective tenant

1 because the prospective tenant was involved in a past or pending
2 landlord-tenant action unless such action resulted in a final
3 judgment against the prospective tenant within three years of the
4 effective date of the prospective rental or lease agreement, and
5 subject to the provisions of section 13 of P.L. , c. (C.)
6 (pending before the Legislature as this bill);

7 (7) To make any inquiry regarding or based on the immigration
8 or citizenship status of a tenant, occupant, or prospective tenant or
9 occupant of residential rental property, or to require that any such
10 person disclose or make any statement, representation, or
11 certification concerning such person's immigration or citizenship
12 status, except to the extent permitted under section 14 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill); or

14 (8) To threaten to disclose or actually disclose information
15 regarding or relating to the immigration or citizenship status of a
16 tenant, occupant, prospective tenant or occupant, or other person
17 known to be associated with a tenant, occupant, or prospective
18 tenant or occupant, for the purpose of, or with the intent of,
19 harassing or intimidating a tenant, occupant, or prospective tenant
20 or occupant; influencing a tenant or occupant to vacate a dwelling;
21 recovering possession of a dwelling from a tenant or occupant; or
22 taking reprisals against a tenant, occupant, or prospective tenant or
23 occupant under subsection d. of this section.

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 or
35 breastfeeding, sex, gender identity or expression, affectional or
36 sexual orientation, disability, liability for service in the Armed
37 Forces of the United States, familial status or nationality, in the
38 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 breastfeeding, sex, gender identity
2 or expression, affectional or sexual orientation, disability, liability
3 for service in the Armed Forces of the United States, familial status
4 or nationality or any intent to make any such limitation,
5 specification or discrimination; unless otherwise required by law or
6 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, immigration or citizenship status except to the extent
31 permitted under section 14 of P.L. , c. (C.) (pending before the
32 Legislature as this bill), ancestry, marital status, civil union status,
33 domestic partnership status, familial status, pregnancy or
34 breastfeeding, sex, gender identity **[or]** gender expression,
35 affectional or sexual orientation, disability, liability for service in
36 the Armed Forces of the United States, nationality, criminal record
37 except to the extent permitted under sections 1 through 12 of
38 P.L. , c. (C.) (pending before the Legislature as this bill), or
39 source of lawful income used for rental or mortgage payments of
40 the owners or occupants in the block, neighborhood or area in
41 which the real property is located, and to represent, directly or
42 indirectly, that this change will or may result in undesirable
43 consequences in the block, neighborhood or area in which the real
44 property is located, including, but not limited to the lowering of
45 property values, an increase in criminal or anti-social behavior, or a
46 decline in the quality of schools or other facilities.

47 l. For any person to refuse to buy from, sell to, lease from or
48 to, license, contract with, or trade with, provide goods, services or

1 information to, or otherwise do business with any other person on
2 the basis of the race, creed, color, national origin, ancestry, age,
3 pregnancy or breastfeeding, sex, gender identity or expression,
4 affectional or sexual orientation, marital status, civil union status,
5 domestic partnership status, liability for service in the Armed
6 Forces of the United States, disability, nationality, or source of
7 lawful income used for rental or mortgage payments of such other
8 person or of such other person's family members, partners,
9 members, stockholders, directors, officers, managers,
10 superintendents, agents, employees, business associates, suppliers,
11 or customers. This subsection shall not prohibit refusals or other
12 actions (1) pertaining to employee-employer collective bargaining,
13 labor disputes, or unfair labor practices, or (2) made or taken in
14 connection with a protest of unlawful discrimination or unlawful
15 employment practices.

16 m. For any person to:

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

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

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

44 n. For any person to aid, abet, incite, compel, coerce, or induce
45 the doing of any act forbidden by subsections l. and m. of section
46 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
47 do so. Such prohibited conduct shall include, but not be limited to:

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

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

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

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

32 q. (1) For any employer to impose upon a person as a condition
33 of obtaining or retaining employment, including opportunities for
34 promotion, advancement or transfers, any terms or conditions that
35 would require a person to violate or forego a sincerely held
36 religious practice or religious observance, including but not limited
37 to the observance of any particular day or days or any portion
38 thereof as a Sabbath or other holy day in accordance with the
39 requirements of the religion or religious belief, unless, after
40 engaging in a bona fide effort, the employer demonstrates that it is
41 unable to reasonably accommodate the employee's religious
42 observance or practice without undue hardship on the conduct of the
43 employer's business. Notwithstanding any other provision of law to
44 the contrary, an employee shall not be entitled to premium wages or
45 premium benefits for work performed during hours to which those
46 premium wages or premium benefits would ordinarily be
47 applicable, if the employee is working during those hours only as an

1 accommodation to his religious requirements. Nothing in this
2 subsection q. shall be construed as reducing:

3 (a) The number of the hours worked by the employee which are
4 counted towards the accruing of seniority, pension or other benefits;
5 or

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

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

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

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

32 (i) The identifiable cost of the accommodation, including the
33 costs of loss of productivity and of retaining or hiring employees or
34 transferring employees from one facility to another, in relation to
35 the size and operating cost of the employer.

36 (ii) The number of individuals who will need the particular
37 accommodation for a sincerely held religious observance or
38 practice.

39 (iii) For an employer with multiple facilities, the degree to
40 which the geographic separateness or administrative or fiscal
41 relationship of the facilities will make the accommodation more
42 difficult or expensive.

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

47 (d) (i) The provisions of this subsection q. shall be applicable
48 only to reasonable accommodations of religious observances and

1 shall not supersede any definition of undue hardship or standards
2 for reasonable accommodation of the disabilities of employees.

3 (ii) This subsection q. shall not apply where the uniform
4 application of terms and conditions of attendance to employees is
5 essential to prevent undue hardship to the employer. The burden of
6 proof regarding the applicability of this subparagraph (d) shall be
7 upon the employer.

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

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

1 unpaid leave provided to an employee affected by pregnancy or
2 breastfeeding shall not be provided in a manner less favorable than
3 accommodations or leave provided to other employees not affected
4 by pregnancy or breastfeeding but similar in their ability or inability
5 to work. This subsection shall not be construed as otherwise
6 increasing or decreasing any employee's rights under law to paid or
7 unpaid leave in connection with pregnancy or breastfeeding.

8 For the purposes of this section "pregnancy or breastfeeding"
9 means pregnancy, childbirth, and breast feeding or expressing milk
10 for breastfeeding, or medical conditions related to pregnancy,
11 childbirth, or breastfeeding, including recovery from childbirth.

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

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

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

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

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

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

46 (5) That the factors are job-related with respect to the position
47 in question and based on a legitimate business necessity. A factor
48 based on business necessity shall not apply if it is demonstrated that

1 there are alternative business practices that would serve the same
2 business purpose without producing the wage differential.

3 Comparisons of wage rates shall be based on wage rates in all of
4 an employer's operations or facilities. For the purposes of this
5 subsection, "member of a protected class" means an employee who
6 has one or more characteristics, including race, creed, color,
7 national origin, nationality, ancestry, age, marital status, civil union
8 status, domestic partnership status, affectional or sexual orientation,
9 genetic information, pregnancy, sex, gender identity or expression,
10 disability or atypical hereditary cellular or blood trait of any
11 individual, or liability for service in the armed forces, for which
12 subsection a. of this section prohibits an employer from refusing to
13 hire or employ or barring or discharging or requiring to retire from
14 employment or discriminating against the individual in
15 compensation or in terms, conditions or privileges of employment.²
16 (cf: P.L.2019, c.436, s.3)]³

17

18 ³[²21. Section 12 of P.L.1992, c.146 (C.10:5-12.5) is amended
19 to read as follows:

20 12. a. It shall be an unlawful discrimination for a municipality,
21 county, or other local civil or political subdivision of the State of
22 New Jersey, or an officer, employee, or agent thereof, to exercise
23 the power to regulate land use or housing in a manner that
24 discriminates on the basis of race, creed, color, national origin,
25 ancestry, marital status, familial status, sex, affectional or sexual
26 orientation, gender identity [or] , gender expression, liability for
27 service in the Armed Forces of the United States, nationality, or
28 disability.

29 b. The provisions of subsection a. of this section may only be
30 enforced by initiating an action in Superior Court pursuant to
31 paragraph (2) of subsection a. of section 12 of P.L.1945, c.169
32 (C.10:5-13). The restrictions of this subsection shall not apply to
33 claims alleging discrimination in housing owned or managed by a
34 municipality, county or other local civil or political subdivision of
35 the State of New Jersey where such discrimination is otherwise
36 prohibited by section 11 of P.L.1945, c.169 (C.10:5-12).²
37 (cf: P.L.2019, c.436, s.4)]³

38

39 ³[²22. Section 2 of P.L.1983, c.412 (C.10:5-14.1a) is amended
40 to read as follows:

41 2. Any person who violates any of the provisions of the "Law
42 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), shall,
43 in addition to any other relief or affirmative action provided by law,
44 be liable for the following penalties:

45 a. In an amount not exceeding **[\$10,000]** the greater of
46 \$25,000 or the maximum civil penalty amount provided for
47 violations of the federal "Fair Housing Act," 42 U.S.C. ss. 3601 et

1 seq., if the respondent has not been adjudged to have committed any
 2 prior violation within the five-year period ending on the date of the
 3 filing of this charge;

4 b. In an amount not exceeding **[\$25,000]** the greater of \$50,000
 5 or the maximum civil penalty amount provided for violations of the
 6 federal “Fair Housing Act,” 42 U.S.C. ss. 3601 et seq., if the
 7 respondent has been adjudged to have committed one other
 8 violation within the five-year period ending on the date of the filing
 9 of this charge; and

10 c. In an amount not exceeding **[\$50,000]** the greater of
 11 \$100,000 or the maximum civil penalty amount provided for
 12 violations of the federal “Fair Housing Act,” 42 U.S.C. ss. 3601 et
 13 seq., if the respondent has been adjudged to have committed two or
 14 more violations within the seven-year period ending on the date of
 15 the filing of this charge.

16 d. The penalties shall be determined by the director in such
 17 amounts as **[he]** the director deems proper under the circumstances
 18 and included in **[his]** the director’s order following **[his]** the
 19 director’s finding of an unlawful discrimination or an unlawful
 20 employment practice pursuant to section 16 of P.L.1945, c.169
 21 (C.10:5-17). Any such amounts collected by the director shall be
 22 paid forthwith into the State Treasury for the general purposes of
 23 the State.²

24 (cf: P.L.2019, c.436, s.7)]³
 25

26 ¹**[7.]** ²**[10.1]** ³**[23. (New section)]**² In accordance with the
 27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 28 seq.), the Attorney General ¹**[may]** shall¹ adopt the rules and
 29 regulations necessary to effectuate the purposes of ¹**[this act]**
 30 P.L. c. , (C.) (pending before the Legislature as this bill) on
 31 or before the first day of the fifth month next following
 32 enactment^{1.}³
 33

34 ¹**[8.]** ²**[11.1]** ³**[24.2]** This act shall take effect on the first day of
 35 the seventh month next following the date of enactment, but the
 36 Attorney General may take any anticipatory administrative action in
 37 advance as shall be necessary for the implementation of this act.³
 38

39 ³1. This act shall be known and may be cited as the “Fair
 40 Chance in Housing Act.”³
 41

42 ³2. The Legislature finds and declares that:

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

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

4 c. Research from other states indicates a substantial increase in
5 the likelihood of a parolee's arrest following each change in
6 address, further supporting the conclusion that when ex-convicts are
7 unable to find stable housing, recidivism becomes more likely and
8 public safety is diminished;

9 d. Prior to the 1990s when popular guidance documents began
10 advising landlords to conduct criminal background checks on
11 prospective tenants, criminal background information was not
12 widely-available and convenient to landlords for informing rental
13 decisions, but many landlords were nonetheless able to maintain
14 safe and healthy rental properties; and

15 e. It is, therefore, necessary and in the public interest for the
16 Legislature to enact legislation for the purpose of establishing
17 certain housing rights of persons with criminal records.³

18
19 ³3. As used in this act:

20 "Applicant" means any person considered for, who requests to be
21 considered for, or who requests to be considered for tenancy within
22 a rental dwelling unit.

23 "Conditional offer" means an offer to rent or lease a rental
24 dwelling unit to an applicant that is contingent on a subsequent
25 inquiry into the applicant's criminal record, or any other eligibility
26 criteria that the housing provider may lawfully utilize.

27 "Criminal record" means information about an individual
28 collected by criminal justice agencies consisting of identifiable
29 descriptions and notations of arrests, detentions, indictments,
30 criminal complaints, or other formal criminal charges, and any
31 disposition arising therefrom, including acquittal, sentencing,
32 correctional supervision, release or conviction, including, but not
33 limited to, any sentence arising from a verdict or plea of guilty or
34 nolo contendere, including a sentence of incarceration, a suspended
35 sentence, a sentence of probation, or a sentence of conditional
36 discharge.

37 "Director" means the Director of the Division on Civil Rights.

38 "Division" means the Division on Civil Rights in the Department
39 of Law and Public Safety.

40 "Housing provider" means a landlord, an owner, lessor,
41 sublessor, assignee, or their agent, or any other person receiving or
42 entitled to receive rents or benefits for the use or occupancy of any
43 rental dwelling unit.

44 "Pending criminal accusation" means an existing accusation that
45 an individual has committed a crime, lodged by a law enforcement
46 agency through an indictment, information, complaint, or other
47 formal charge.

1 “Rental dwelling unit” means a dwelling unit offered for rent by
2 a housing provider for residential purposes, other than a dwelling
3 unit in an owner-occupied premises of not more than four dwelling
4 units.³

5
6 ³4. a. (1) A housing provider shall not require an applicant to
7 complete any housing application that includes any inquiries
8 regarding an applicant’s criminal record prior to the provision of a
9 conditional offer, except that a housing provider may consider
10 whether an applicant has ever been convicted of drug-related
11 criminal activity for the manufacture or production of
12 methamphetamine on the premises of federally assisted housing,
13 and whether the applicant is subject to a lifetime registration
14 requirement under a State sex offender registration program.

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

18 (3) An applicant may provide evidence to the housing provider
19 demonstrating inaccuracies within the applicant's criminal record or
20 evidence of rehabilitation or other mitigating factors.

21 b. Prior to accepting any application fee, a housing provider
22 shall disclose in writing to the applicant:

23 (1) Whether the eligibility criteria of the housing provider
24 include the review and consideration of criminal history; and

25 (2) A statement that the applicant, pursuant to subsection a. of
26 this section, may provide evidence demonstrating inaccuracies
27 within the applicant's criminal record or evidence of rehabilitation
28 or other mitigating factors.

29 c. A housing provider shall apply the standards established by
30 this section to each applicant in a nondiscriminatory manner.³

31
32 ³5. a. A housing provider shall not, either before or after the
33 issuance of a conditional offer, evaluate an applicant based on any
34 of the following types of criminal records:

35 (1) arrests or charges that have not resulted in a criminal
36 conviction;

37 (2) expunged convictions;

38 (3) convictions erased through executive pardon;

39 (4) vacated and otherwise legally nullified convictions;

40 (5) juvenile adjudications of delinquency; and

41 (6) records that have been sealed.

42 b. After the issuance of a conditional offer to an applicant, a
43 housing provider may only consider a criminal record in the
44 applicant’s history that:

45 (1) resulted in a conviction for murder, aggravated sexual
46 assault, kidnapping, arson, human trafficking, sexual assault in
47 violation of N.J.S.2C:14-2, causing or permitting a child to engage
48 in a prohibited sexual act or in the simulation of such an act in

1 violation of paragraph (3) of subsection b. of N.J.S.2C:24-4, or any
2 crime that resulted in lifetime registration in a state sex offender
3 registry;
4 (2) is for an indictable offense of the first degree that was
5 issued, or if the conviction resulted in a prison sentence that
6 sentence concluded, within the six years immediately preceding the
7 issuance of the conditional offer;
8 (3) is for an indictable offense of the second or third degree that
9 was issued, or if the conviction resulted in a prison sentence that
10 sentence concluded, within the four years immediately preceding
11 the issuance of the conditional offer; or
12 (4) is for an indictable offense of the fourth degree that was
13 issued, or if the conviction resulted in a prison sentence that
14 sentence concluded, within one year immediately preceding the
15 issuance of the conditional offer.
16 c. (1) A housing provider may withdraw a conditional offer
17 based on an applicant's criminal record only if the housing provider
18 determines, by preponderance of the evidence, that the withdrawal
19 is necessary to fulfill a substantial, legitimate, and
20 nondiscriminatory interest.
21 (2) If a housing provider withdraws a conditional offer, the
22 housing provider shall provide the applicant with written
23 notification that includes, with specificity, the reason or reasons for
24 the withdrawal of the conditional offer and an opportunity to appeal
25 the denial by providing evidence to the housing provider
26 demonstrating inaccuracies within the applicant's criminal record or
27 evidence of rehabilitation or other mitigating factors.
28 (3) The housing provider shall perform an individualized
29 assessment of the application in light of the following factors:
30 (a) the nature and severity of the criminal offense;
31 (b) the age of the applicant at the time of the occurrence of the
32 criminal offense;
33 (c) the time which has elapsed since the occurrence of the
34 criminal offense;
35 (d) any information produced by the applicant, or produced on
36 the applicant's behalf, in regard to the applicant's rehabilitation and
37 good conduct since the occurrence of the criminal offense;
38 (e) the degree to which the criminal offense, if it reoccurred,
39 would negatively impact the safety of the housing provider's other
40 tenants or property; and
41 (f) whether the criminal offense occurred on or was connected to
42 property that was rented or leased by the applicant.
43 d. (1) the applicant may request, within 30 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 (2) a housing provider shall provide the information requested
2 under paragraph (1) of this subsection, free of charge, within 10
3 days after receipt of a timely request.³

4
5 ³6. a. The director shall prepare:

6 (1) a model disclosure statement as indicated in subsection b. of
7 section 4 of this act which provides notice that a housing provider
8 intends to review and consider a person's criminal record in
9 determining eligibility for housing or in taking any other adverse
10 housing action against that person. The statement shall also provide
11 an explanation of the criminal records that may be considered and
12 the manner in which they may be considered, in accordance with
13 the provisions of section 5 of this act. The statement shall also
14 notify the person of the right to dispute, within 10 days of receiving
15 such statement, the relevance and accuracy of the criminal record
16 and to offer evidence of any mitigating facts or circumstances,
17 including but not limited to the person's rehabilitation and good
18 conduct since the criminal offense in question; and

19 (2) a model notice that provides notice that a housing provider
20 has withdrawn a conditional offer or taken an adverse housing
21 action based on a person's criminal record, provides space for the
22 housing provider to identify with specificity the reason or reasons
23 for withdrawing the conditional offer or taking the adverse housing
24 action. The notification form shall also notify the person of the
25 right to request from the housing provider a copy of all information
26 upon which the housing provider relied in reaching its decision,
27 including criminal records, and of the right to file a complaint with
28 the division, as well as the applicable statute of limitations, and
29 shall include such other additional information as the director
30 deems appropriate.

31 b. The model documents prepared pursuant to this section shall
32 be made available on the division's Internet website, at no cost, and
33 shall be in English, Spanish, and in any other language the director
34 deems appropriate.³

35
36 ³7. a. A housing provider shall not knowingly or purposefully
37 publish, or cause to be published, any housing advertisement that
38 explicitly provides that the housing provider will not consider any
39 applicant who has been arrested or convicted of one or more crimes
40 or offenses, except for drug-related criminal activity for the
41 manufacture or production of methamphetamine on the premises of
42 federally assisted housing, and whether the applicant is subject to a
43 lifetime registration requirement under a State sex offender
44 registration program.

45 b. A housing provider shall not print, publish, circulate, issue,
46 display, post, or mail, or cause to be printed, published, circulated,
47 issued, displayed, posted or mailed any statement, advertisement,
48 publication or sign, or use any form of application for the rental,

1 lease, or sublease of any real property or part or portion thereof or
2 make any record or inquiry in connection with the prospective
3 rental, lease, or sublease of any real property or part or portion
4 thereof which expresses, directly or indirectly, any unlawful
5 limitation, specification or discrimination as to criminal record,
6 except as permitted by this act and for drug-related criminal activity
7 for the manufacture or production of methamphetamine on the
8 premises of federally assisted housing, and whether the applicant is
9 subject to a lifetime registration requirement under a State sex
10 offender registration program.

11 c. Unless otherwise required by law, a housing provider shall
12 not:

13 (1) distribute or disseminate an applicant's criminal record to
14 any person who is not expected to use the criminal record for the
15 purpose of evaluating the applicant in a manner consistent with this
16 act; or

17 (2) use an applicant's criminal record for a purpose that is not
18 consistent with this act.³

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

27 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
29 a 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
34 b. of N.J.S.2C:24-4, or any crime that resulted in lifetime
35 registration in a state sex offender registry.³

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

40
41 ³10. 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. If the division determines that a housing provider has engaged
44 in one or more unlawful actions against a person with the intent of
45 retaliating for the person's filing of an action against the housing
46 provider pursuant to section 12 of this act, then each unlawful

1 retaliatory action shall be enforced, pursuant to section 12 of this
2 act, as a separate and distinct violation of this act.³

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

16
17 ³12. a. An action that alleges a violation of this act shall not be
18 initiated by any person in court. The director, or an applicant or
19 prospective applicant who believes that a housing provider has
20 violated a provision of this act with respect to that applicant or
21 prospective applicant, may file a complaint with the division. Upon
22 the filing of a complaint by a person other than the director, the
23 division shall make a good faith effort to notify the housing
24 provider of the alleged violation and offer the housing provider the
25 opportunity to mediate and address the complaint within 14 days of
26 receiving the notice. The division shall not subject a housing
27 provider to any penalty pursuant to subsection c. of this section if
28 the complaint is addressed pursuant to the process identified in this
29 subsection.

30 b. If the complaint is not resolved in accordance with subsection
31 a. of this section, and the division determines following an
32 investigation that the complaint is substantiated, the director shall
33 issue a monetary penalty against the housing provider and may
34 require the housing provider to take one or more of the actions
35 authorized by subsection d. of this section.

36 (1) A housing provider may appeal a final decision by the
37 director issued pursuant to this section to the Appellate Division of
38 the Superior Court.

39 (2) A complainant may appeal, to the Appellate Division of the
40 Superior Court, a finding by the director following an investigation
41 that the complaint is not substantiated, but the complainant may not
42 appeal a decision by the director not to investigate a complaint.

43 c. A housing provider who violates a provision of this act shall
44 be liable for the following applicable penalties:

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

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

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

7 d. The director is authorized to require a housing provider to
8 take one or more of the following actions upon a finding that the
9 housing provider has violated a provision of this act:

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

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

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

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

43 e. Nothing herein contained shall bar, exclude or otherwise
44 affect any right or action which may exist independently of any
45 right or action created herein, including but not limited to any right
46 or action under P.L.1945, c.169 (C.10:5-1 et seq.).³

- 1 ³13. In accordance with the "Administrative Procedure Act,"
2 P.L.1968, c.410 (C.52:14B-1 et seq.), the director shall adopt the
3 rules and regulations necessary to effectuate the purposes of this act
4 on or before the first day of the fifth month next following
5 enactment.³
6
- 7 ³14. This act shall take effect on the first day of the seventh
8 month next following the date of enactment, but the division may
9 take any anticipatory administrative action in advance as shall be
10 necessary for the implementation of this act.³