

ASSEMBLY, No. 2509

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 14, 1996

By Assemblywoman FRISCIA

1 AN ACT concerning discrimination and amending the "Law Against
2 Discrimination," P.L.1945, c.169.

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

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

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

11 a. For an employer, because of the race, creed, color, national
12 origin, ancestry, age, marital status, affectional or sexual orientation,
13 sex or atypical hereditary cellular or blood trait of any individual, or
14 because of the liability for service in the Armed Forces of the United
15 States or the nationality of any individual, to refuse to hire or employ
16 or to bar or to discharge or require to retire, unless justified by lawful
17 considerations other than age, from employment such individual or to
18 discriminate against such individual in compensation or in terms,
19 conditions or privileges of employment; provided, however, it shall not
20 be an unlawful employment practice to refuse to accept for
21 employment an applicant who has received a notice of induction or
22 orders to report for active duty in the armed forces; provided further
23 that nothing herein contained shall be construed to bar an employer
24 from refusing to accept for employment any person on the basis of sex
25 in those certain circumstances where sex is a bona fide occupational
26 qualification, reasonably necessary to the normal operation of the
27 particular business or enterprise; provided further that nothing herein
28 contained shall be construed to bar an employer from refusing to
29 accept for employment or to promote any person over 70 years of age;
30 provided further that it shall not be an unlawful employment practice
31 for a club exclusively social or fraternal to use club membership as a
32 uniform qualification for employment, or for a religious association or
33 organization to utilize religious affiliation as a uniform qualification in
34 the employment of clergy, religious teachers or other employees

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

Matter underlined thus is new matter.

1 engaged in the religious activities of the association or organization,
2 or in following the tenets of its religion in establishing and utilizing
3 criteria for employment of an employee; provided further, that it shall
4 not be an unlawful employment practice to require the retirement of
5 any employee who, for the two-year period immediately before
6 retirement, is employed in a bona fide executive or a high
7 policy-making position, if that employee is entitled to an immediate
8 non-forfeitable annual retirement benefit from a pension, profit
9 sharing, savings or deferred retirement plan, or any combination of
10 those plans, of the employer of that employee which equals in the
11 aggregate at least \$27,000.00; and provided further that an employer
12 may restrict employment to citizens of the United States where such
13 restriction is required by federal law or is otherwise necessary to
14 protect the national interest.

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

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

35 c. For any employer or employment agency to print or circulate or
36 cause to be printed or circulated any statement, advertisement or
37 publication, or to use any form of application for employment, or to
38 make an inquiry in connection with prospective employment, which
39 expresses, directly or indirectly, any limitation, specification or
40 discrimination as to race, creed, color, national origin, ancestry, age,
41 marital status, affectional or sexual orientation or sex or liability of any
42 applicant for employment for service in the Armed Forces of the
43 United States, or any intent to make any such limitation, specification
44 or discrimination, unless based upon a bona fide occupational
45 qualification.

46 d. For any person to take reprisals against any person because that

1 person has opposed any practices or acts forbidden under this act or
2 because that person has filed a complaint, testified or assisted in any
3 proceeding under this act or to coerce, intimidate, threaten or interfere
4 with any person in the exercise or enjoyment of, or on account of that
5 person having aided or encouraged any other person in the exercise or
6 enjoyment of, any right granted or protected by this act.

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

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

42 g. For the owner, lessee, sublessee, assignee or managing agent of,
43 or other person having the right of ownership or possession of or the
44 right to sell, rent, lease, assign, or sublease any real property or part
45 or portion thereof, or any agent or employee of any of these:

46 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise

1 to deny to or withhold from any person or group of persons any real
2 property or part or portion thereof because of the race, creed, color,
3 national origin, ancestry, marital status, affectional or sexual
4 orientation, familial status or nationality of such person or group of
5 persons;

6 (2) To discriminate against any person or group of persons because
7 of the race, creed, color, national origin, marital status, sex, affectional
8 or sexual orientation or familial status of such person or group of
9 persons in the terms, conditions or privileges of the sale, rental or
10 lease of any real property or part or portion thereof or in the
11 furnishing of facilities or services in connection therewith; or

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

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

36 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
37 sale, rental, lease, assignment, or sublease any real property or part or
38 portion thereof to any person or group of persons or to refuse to
39 negotiate for the sale, rental, lease, assignment, or sublease of any real
40 property or part or portion thereof to any person or group of persons
41 because of the race, creed, color, national origin, ancestry, marital
42 status, familial status, sex, affectional or sexual orientation or
43 nationality of such person or group of persons, or to represent that any
44 real property or portion thereof is not available for inspection, sale,
45 rental, lease, assignment, or sublease when in fact it is so available, or
46 otherwise to deny or withhold any real property or any part or portion

1 of facilities thereof to or from any person or group of persons because
2 of the race, creed, color, national origin, ancestry, marital status,
3 familial status, sex, affectional or sexual orientation or nationality of
4 such person or group of persons;

5 (2) To discriminate against any person because of his race, creed,
6 color, national origin, ancestry, marital status, familial status, sex or
7 affectional or sexual orientation in the terms, conditions or privileges
8 of the sale, rental, lease, assignment or sublease of any real property
9 or part or portion thereof or in the furnishing of facilities or services
10 in connection therewith; or

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

33 i. For any person, bank, banking organization, mortgage company,
34 insurance company or other financial institution, lender or credit
35 institution to whom application is made for any loan or extension of
36 credit including but not limited to an application for financial
37 assistance for the purchase, acquisition, construction, rehabilitation,
38 repair or maintenance of any real property or part or portion thereof
39 or any agent or employee thereof:

40 (1) To discriminate against any person or group of persons because
41 of the race, creed, color, national origin, ancestry, marital status, sex,
42 affectional or sexual orientation or nationality of such person or group
43 of persons or of the prospective occupants or tenants of such real
44 property or part or portion thereof, in the granting, withholding,
45 extending, modifying or renewing, or in the fixing of the rates, terms,
46 conditions or provisions of any such loan, extension of credit or

1 financial assistance or in the extension of services in connection
2 therewith; or

3 (2) To use any form of application for such loan, extension of
4 credit or financial assistance or to make record or inquiry in
5 connection with applications for any such loan, extension of credit or
6 financial assistance which expresses, directly or indirectly, any
7 limitation, specification or discrimination as to race, creed, color,
8 national origin, ancestry, marital status, sex, affectional or sexual
9 orientation or nationality or any intent to make any such limitation,
10 specification or discrimination; unless otherwise required by law or
11 regulation to retain or use such information; or

12 (3) To discriminate on the basis of familial status in any manner
13 described in paragraph (1) or (2) of this subsection with respect to any
14 real property.

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

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

34 l. For any person to refuse to buy from, sell to, lease from or to,
35 license, contract with, or trade with, provide goods, services or
36 information to, or otherwise do business with any other person on the
37 basis of the race, creed, color, national origin, ancestry, age, sex,
38 affectional or sexual orientation, marital status, liability for service in
39 the Armed Forces of the United States, or nationality of such other
40 person or of such other person's spouse, partners, members,
41 stockholders, directors, officers, managers, superintendents, agents,
42 employees, business associates, suppliers, or customers. This
43 subsection shall not prohibit refusals or other actions (1) pertaining to
44 employee-employer collective bargaining, labor disputes, or unfair
45 labor practices, or (2) made or taken in connection with a protest of
46 unlawful discrimination or unlawful employment practices.

1 m. For any person to:

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

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

18 The provisions of this subsection shall not apply to any letter of
19 credit, contract, or other document which contains any provision
20 pertaining to employee-employer collective bargaining, a labor dispute
21 or an unfair labor practice, or made in connection with the protest of
22 unlawful discrimination or an unlawful employment practice, if the
23 other provisions of such letter of credit, contract, or other document
24 do not otherwise violate the provisions of this subsection.

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

29 (1) Buying from, selling to, leasing from or to, licensing,
30 contracting with, trading with, providing goods, services, or
31 information to, or otherwise doing business with any person because
32 that person does, or agrees or attempts to do, any such act or any act
33 prohibited by this subsection n.; or

34 (2) Boycotting, commercially blacklisting or refusing to buy from,
35 sell to, lease from or to, license, contract with, provide goods, services
36 or information to, or otherwise do business with any person because
37 that person has not done or refuses to do any such act or any act
38 prohibited by this subsection n.; provided that this subsection n. shall
39 not prohibit refusals or other actions either pertaining to
40 employee-employer collective bargaining, labor disputes, or unfair
41 labor practices, or made or taken in connection with a protest of
42 unlawful discrimination or unlawful employment practices.

43 o. For any seller of services to discriminate, with respect to the
44 price charged for the services, against a person because of the race,
45 creed, color, national origin, ancestry, age, marital status, familial
46 status, sex or affectional or sexual orientation of that person, except

1 as otherwise provided in Title 17 of the Revised Statutes or Title 17B
2 of the New Jersey Statutes.

3 (cf: P.L.1992, c.146, s.9)

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5 2. This act shall take effect immediately.

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STATEMENT

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10 This bill amends the "Law Against Discrimination" to provide that
11 it is unlawful for any seller of services to discriminate, with respect to
12 the price charged for the services, against a person because of the
13 race, creed, color, national origin, ancestry, age, marital status, familial
14 status, sex or affectional or sexual orientation of that person, except
15 as otherwise provided in Title 17 of the Revised Statutes or Title 17B
16 of the New Jersey Statutes.

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21 Prohibits discrimination with respect to prices charged by sellers of
22 services.