

SENATE, No. 346

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator BAER

1 AN ACT concerning discrimination and amending the "Law Against  
2 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) and P.L.1954,  
3 c.198.

4

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

7

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

10 3. The Legislature finds and declares that practices of  
11 discrimination against any of its inhabitants, because of race, creed,  
12 color, national origin, ancestry, age, sex, affectional or sexual  
13 orientation, marital status, familial status, liability for service in the  
14 Armed Forces of the United States, atypical hereditary cellular or  
15 blood trait or nationality, are matters of concern to the government of  
16 the State, and that such discrimination threatens not only the rights  
17 and proper privileges of the inhabitants of the State but menaces the  
18 institutions and foundation of a free democratic State; provided,  
19 however, that nothing in this expression of policy prevents the making  
20 of legitimate distinctions between citizens and aliens when required by  
21 federal law or otherwise necessary to promote the national interest.

22 The Legislature further declares its opposition to such practices of  
23 discrimination when directed against any person by reason of the race,  
24 creed, color, national origin, ancestry, age, sex, affectional or sexual  
25 orientation, marital status, liability for service in the Armed Forces of  
26 the United States, atypical hereditary cellular or blood trait or  
27 nationality of that person or that person's spouse, partners, members,  
28 stockholders, directors, officers, managers, superintendents, agents,  
29 employees, business associates, suppliers, or customers, in order that  
30 the economic prosperity and general welfare of the inhabitants of the  
31 State may be protected and ensured.

32 The Legislature further finds that because of discrimination, people

**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 suffer personal hardships, and the State suffers a grievous harm. The  
2 personal hardships include: economic loss; time loss; physical and  
3 emotional stress; and in some cases severe emotional trauma, illness,  
4 homelessness or other irreparable harm resulting from the strain of  
5 employment controversies; relocation, search and moving difficulties;  
6 anxiety caused by lack of information, uncertainty, and resultant  
7 planning difficulty; career, education, family and social disruption; and  
8 adjustment problems, which particularly impact on those protected by  
9 this act. Such harms have, under the common law, given rise to legal  
10 remedies, including compensatory and punitive damages. The  
11 Legislature intends that such damages be available to all persons  
12 protected by this act and that this act shall be liberally construed in  
13 combination with other protections available under the laws of this  
14 State.

15 (cf: P.L.1992, c.146, s.1)

16

17 2. Section 4 of P.L.1945, c.169 (C.10:5-4) is amended to read as  
18 follows:

19 4. All persons shall have the opportunity to obtain employment,  
20 and to obtain all the accommodations, advantages, facilities, and  
21 privileges of any place of public accommodation, publicly assisted  
22 housing accommodation, and other real property without  
23 discrimination because of race, creed, color, national origin, ancestry,  
24 age, marital status, affectional or sexual orientation, familial status, or  
25 sex or atypical hereditary cellular or blood trait of any individual, or  
26 because of liability for service in the Armed Forces of the United  
27 States or the nationality of any individual, subject only to conditions  
28 and limitations applicable alike to all persons. This opportunity is  
29 recognized as and declared to be a civil right.

30 (cf: P.L.1992, c. 146, s.2)

31

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

34 5. As used in this act, unless a different meaning clearly appears  
35 from the context:

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

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

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

- 1 d. "Unlawful employment practice" and "unlawful discrimination"  
2 include only those unlawful practices and acts specified in section 11  
3 of this act.
- 4 e. "Employer" includes all persons as defined in subsection a. of  
5 this section unless otherwise specifically exempt under another section  
6 of this act, and includes the State, any political or civil subdivision  
7 thereof, and all public officers, agencies, boards or bodies.
- 8 f. "Employee" does not include any individual employed by his  
9 parents, spouse or child, or in the domestic service of any person.
- 10 g. "Liability for service in the Armed Forces of the United States"  
11 means subject to being ordered as an individual or member of an  
12 organized unit into active service in the Armed Forces of the United  
13 States by reason of membership in the National Guard, naval militia or  
14 a reserve component of the Armed Forces of the United States, or  
15 subject to being inducted into such armed forces through a system of  
16 national selective service.
- 17 h. "Division" means the "Division on Civil Rights" created by this  
18 act.
- 19 i. "Attorney General" means the Attorney General of the State of  
20 New Jersey or his representative or designee.
- 21 j. "Commission" means the Commission on Civil Rights created by  
22 this act.
- 23 k. "Director" means the Director of the Division on Civil Rights.
- 24 l. "A place of public accommodation" shall include, but not be  
25 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer  
26 camp, day camp, or resort camp, whether for entertainment of  
27 transient guests or accommodation of those seeking health, recreation  
28 or rest; any producer, manufacturer, wholesaler, distributor, retail  
29 shop, store, establishment, or concession dealing with goods or  
30 services of any kind; any restaurant, eating house, or place where food  
31 is sold for consumption on the premises; any place maintained for the  
32 sale of ice cream, ice and fruit preparations or their derivatives, soda  
33 water or confections, or where any beverages of any kind are retailed  
34 for consumption on the premises; any garage, any public conveyance  
35 operated on land or water, or in the air, any stations and terminals  
36 thereof; any bathhouse, boardwalk, or seashore accommodation; any  
37 auditorium, meeting place, or hall; any theatre, motion-picture house,  
38 music hall, roof garden, skating rink, swimming pool, amusement and  
39 recreation park, fair, bowling alley, gymnasium, shooting gallery,  
40 billiard and pool parlor, or other place of amusement; any comfort  
41 station; any dispensary, clinic, proprietary nursing home, convalescent  
42 home, home for adults, intermediate care facility, or hospital; any  
43 public library; any kindergarten, primary and secondary school, trade  
44 or business school, high school, academy, college and university, or  
45 any educational institution under the supervision of the State Board of  
46 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 by  
5 a bona fide religious or sectarian institution, and the right of a natural  
6 parent or one in loco parentis to direct the education and upbringing  
7 of a child under his control is hereby affirmed; nor shall anything  
8 herein contained be construed to bar any private secondary or  
9 post-secondary school from using in good faith criteria other than  
10 race, creed, color, national origin [or] ancestry[,] or affectional or  
11 sexual orientation, in the admission of students.

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

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

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

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

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

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

46 r. "Blind person" means any individual whose central visual acuity

1 does not exceed 20/200 in the better eye with correcting lens or whose  
2 visual acuity is better than 20/200 if accompanied by a limit to the field  
3 of vision in the better eye to such a degree that its widest diameter  
4 subtends an angle of no greater than 20 degrees.

5 s. "Guide dog" means a dog used to assist deaf persons or which  
6 is fitted with a special harness so as to be suitable as an aid to the  
7 mobility of a blind person, and is used by a blind person who has  
8 satisfactorily completed a specific course of training in the use of such  
9 a dog, and has been trained by an organization generally recognized by  
10 agencies involved in the rehabilitation of the blind or deaf as reputable  
11 and competent to provide dogs with training of this type.

12 t. "Guide or service dog trainer" means any person who is  
13 employed by an organization generally recognized by agencies  
14 involved in the rehabilitation of the blind, handicapped or deaf as  
15 reputable and competent to provide dogs with training, and who is  
16 actually involved in the training process.

17 u. "Housing accommodation" means any publicly assisted housing  
18 accommodation or any real property, or portion thereof, which is used  
19 or occupied, or is intended, arranged, or designed to be used or  
20 occupied, as the home, residence or sleeping place of one or more  
21 persons, but shall not include any single family residence the occupants  
22 of which rent, lease, or furnish for compensation not more than one  
23 room therein.

24 v. "Public facility" means any place of public accommodation and  
25 any street, highway, sidewalk, walkway, public building, and any other  
26 place or structure to which the general public is regularly, normally or  
27 customarily permitted or invited.

28 w. "Deaf person" means any person whose hearing is so severely  
29 impaired that the person is unable to hear and understand normal  
30 conversational speech through the unaided ear alone, and who must  
31 depend primarily on supportive device or visual communication such  
32 as writing, lip reading, sign language, and gestures.

33 x. "Atypical hereditary cellular or blood trait" means sickle cell  
34 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
35 fibrosis trait.

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

45 z. "Hemoglobin C trait" means the condition wherein the major  
46 natural hemoglobin components present in the blood of the individual

1 are hemoglobin A (normal) and hemoglobin C as defined by standard  
2 chemical and physical analytic techniques, including electrophoresis;  
3 and the proportion of hemoglobin A is greater than the proportion of  
4 hemoglobin C or one natural parent of the individual is shown to have  
5 only normal hemoglobin components (hemoglobin A, hemoglobin A2,  
6 hemoglobin F) in normal proportions by standard chemical and  
7 physical analytic tests.

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

11 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
12 which in combination with another similar gene results in the chronic  
13 hereditary disease Tay-Sachs.

14 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis  
15 gene which in combination with another similar gene results in the  
16 chronic hereditary disease cystic fibrosis.

17 dd. "Service dog" means any dog individually trained to a  
18 handicapped person's requirements including, but not limited to,  
19 minimal protection work, rescue work, pulling a wheelchair or  
20 retrieving dropped items.

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

23 ff. "Affectional or sexual orientation" means male or female  
24 heterosexuality, homosexuality or bisexuality by inclination, practice,  
25 identity or expression, having a history thereof or being perceived,  
26 presumed or identified by others as having such an orientation.

27 gg. "Hetrosexuality" means affectional, emotional or physical  
28 attraction or behavior which is primarily directed towards persons of  
29 the other gender.

30 hh. "Homosexuality" means affectional, emotional or physical  
31 attraction or behavior which is primarily directed towards persons of  
32 the same gender.

33 ii. "Bisexuality" means affectional, emotional or physical attraction  
34 or behavior which is directed towards persons of either gender.

35 jj. "Familial status" means being the natural parent of a child, the  
36 adoptive parent of a child, the foster parent of a child, having a "parent  
37 and child relationship" with a child as defined by State law, or having  
38 sole or joint legal or physical custody, care, guardianship, or visitation  
39 with a child, or any person who is pregnant or is in the process of  
40 securing legal custody of any individual who has not attained the age  
41 of 18 years.

42 kk. "Housing for older persons" means housing:

43 (1) provided under any State or federal program that the Attorney  
44 General determines is specifically designed and operated to assist  
45 elderly persons (as defined in the State or federal program); or

46 (2) intended for, and solely occupied by persons 62 years of age or

1 older; or

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

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

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

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

17 Housing shall not fail to meet the requirements for housing for  
18 older persons by reason of: persons residing in such housing as of  
19 March 12, 1989 not meeting the age requirements of this subsection,  
20 provided that new occupants of such housing meet the age  
21 requirements of this subsection; or unoccupied units, provided that  
22 such units are reserved for occupancy by persons who meet the age  
23 requirements of this subsection.

24 ll. "AIDS" means acquired immune deficiency syndrome as defined  
25 by the Centers for Disease Control of the United States Public Health  
26 Service;

27 mm. "HIV infection" means infection with the human  
28 immunodeficiency virus or any other related virus identified as a  
29 probable causative agent of AIDS.

30 (cf: P.L.1992, c.146, s.4)

31

32 4. Section 6 of P.L.1945, c.169 (C.10:5-6) is amended to read as  
33 follows:

34 6. There is created in the Department of Law and Public Safety a  
35 division known as "The Division on Civil Rights" with power to  
36 prevent and eliminate discrimination in the manner prohibited by this  
37 act against persons because of race, creed, color, national origin,  
38 nationality, ancestry, age, marital status, affectional or sexual  
39 orientation, familial status, or sex or atypical hereditary cellular or  
40 blood trait of any individual or because of their liability for service in  
41 the Armed Forces of the United States, by employers, labor  
42 organizations, employment agencies or other persons and to take other  
43 actions against discrimination because of race, creed, color, national  
44 origin, nationality, ancestry, marital status, sex, familial status, or age,  
45 affectional or sexual orientation or atypical hereditary cellular or blood  
46 trait of any individual or because of their liability for service in the

1 Armed Forces of the United States, as herein provided; and the  
2 division created hereunder is given general jurisdiction and authority  
3 for such purposes.

4 (cf: P.L.1992, c.146, s.5)

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

8 8. The Attorney General shall:

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

10 b. Administer the work of the division.

11 c. Organize the division into sections, which shall include but not  
12 be limited to a section which shall receive, investigate, and act upon  
13 complaints alleging discrimination against persons because of race,  
14 creed, color, national origin, nationality, ancestry, age, marital status,  
15 affectional or sexual orientation, familial status, or sex or atypical  
16 hereditary cellular or blood trait of any individual or because of their  
17 liability for service in the Armed Forces of the United States; and  
18 another which shall, in order to eliminate prejudice and to further good  
19 will among the various racial, religious, nationality and other groups  
20 in this State, study, recommend, prepare and implement, in  
21 cooperation with such other departments of the State Government or  
22 any other agencies, groups or entities both public and private, such  
23 educational and human relations programs as are consonant with the  
24 objectives of this act; and prescribe the organization of said sections  
25 and the duties of his subordinates and assistants.

26 d. Appoint a Director of the Division on Civil Rights, who shall act  
27 for the Attorney General, in the Attorney General's place and with the  
28 Attorney General's powers, which appointment shall be subject to the  
29 approval of the commission and the Governor, a deputy director and  
30 such assistant directors, field representatives and assistants as may be  
31 necessary for proper administration of the division and fix their  
32 compensation within the limits of available appropriations. The  
33 director, deputy director, assistant directors, field representatives and  
34 assistants shall not be subject to the Civil Service Act and shall be  
35 removable by the Attorney General at will.

36 e. Appoint such clerical force and employees as the Attorney  
37 General may deem necessary and fix their duties, all of whom shall be  
38 subject to the Civil Service Act.

39 f. Maintain liaison with local and State officials and agencies  
40 concerned with matters related to the work of the division.

41 g. Adopt, promulgate, amend, and rescind, suitable rules and  
42 regulations to carry out the provisions of this act.

43 h. Conduct investigations, receive complaints and conduct  
44 hearings thereon other than those complaints received and hearings  
45 held pursuant to the provisions of this act.

46 i. In connection with any investigation or hearing held pursuant to

1 the provisions of this act, subpoena witnesses, compel their  
2 attendance, administer oaths, take the testimony of any person, under  
3 oath, and, in connection therewith, require the production for  
4 examination of any books or papers relating to any subject matter  
5 under investigation or in question by the division and conduct such  
6 discovery procedures which may include the taking of interrogatories  
7 and oral depositions as shall be deemed necessary by the Attorney  
8 General in any investigation. The Attorney General may make rules  
9 as to the issuance of subpoenas by the director. The failure of any  
10 witness when duly subpoenaed to attend, give testimony, or produce  
11 evidence shall be punishable by the Superior Court of New Jersey in  
12 the same manner as such failure is punishable by such court in a case  
13 therein pending.

14 j. Issue such publications and such results of investigations and  
15 research tending to promote good will and to minimize or eliminate  
16 discrimination because of race, creed, color, national origin,  
17 nationality, ancestry, age, marital status, affectional or sexual  
18 orientation, familial status or sex or atypical hereditary cellular or  
19 blood trait of any individual or because of liability for service in the  
20 Armed Forces of the United States, as the commission shall direct,  
21 subject to available appropriations.

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

24 l. Appoint, subject to the approval of the commission, a panel of  
25 not more than five hearing examiners, each of whom shall be duly  
26 licensed to practice law in this State for a period of at least five years,  
27 and each to serve for a term of one year and until his successor is  
28 appointed, any one of whom the director may designate in his place to  
29 conduct any hearing and recommend findings of fact and conclusions  
30 of law. The hearing examiners shall receive such compensation as may  
31 be determined by the Attorney General, subject to available  
32 appropriations.

33 (cf: P.L.1992, c.146, s.6)

34

35 6. Section 1 of P.L.1954, c.198 (C.10:5-9.1) is amended to read as  
36 follows:

37 1. The Division on Civil Rights in the Department of Law and  
38 Public Safety shall enforce the laws of this State against discrimination  
39 in housing built with public funds or public assistance, pursuant to any  
40 law, and in real property, as defined in the law hereby supplemented,  
41 because of race, religious principles, color, national origin, nationality,  
42 ancestry, marital status, affectional or sexual orientation, familial  
43 status [or], sex, atypical hereditary cellular or blood trait of any  
44 individual or because of liability for service in the Armed Forces of the  
45 United States. The said laws shall be so enforced in the manner

1 prescribed in the act to which this act is a supplement.

2 (cf: P.L.1992, c.146, s.7)

3

4 7. Section 9 of P.L.1945, c.169 (C.10:5-10) is amended to read as  
5 follows:

6 9. The commission shall:

7 a. Consult with and advise the Attorney General with respect to  
8 the work of the division.

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

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

13 The mayors or chief executive officers of the municipalities in the  
14 State may appoint local commissions on civil rights to aid in  
15 effectuating the purposes of this act. Such local commissions shall be  
16 composed of representative citizens serving without compensation.  
17 Such commissions shall attempt to foster through community effort or  
18 otherwise, good will, cooperation and conciliation among the groups  
19 and elements of the inhabitants of the community, and they may be  
20 empowered by the local governing bodies to make recommendations  
21 to them for the development of policies and procedures in general and  
22 for programs of formal and informal education that will aid in  
23 eliminating all types of discrimination based on race, creed, color,  
24 national origin, nationality, ancestry, age, marital status, affectional or  
25 sexual orientation, familial status [or], sex or atypical hereditary  
26 cellular or blood trait of any individual or because of liability for  
27 service in the Armed Forces of the United States.

28 (cf: P.L.1992, c.146, s.8)

29

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

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

34 a. For an employer, because of the race, creed, color, national  
35 origin, ancestry, age, marital status, affectional or sexual orientation,  
36 sex or atypical hereditary cellular or blood trait of any individual, or  
37 because of the liability for service in the Armed Forces of the United  
38 States or the nationality of any individual, to refuse to hire or employ  
39 or to bar or to discharge or require to retire, unless justified by lawful  
40 considerations other than age, from employment such individual or to  
41 discriminate against such individual in compensation or in terms,  
42 conditions or privileges of employment; provided, however, it shall not  
43 be an unlawful employment practice to refuse to accept for  
44 employment an applicant who has received a notice of induction or  
45 orders to report for active duty in the armed forces; provided further  
46 that nothing herein contained shall be construed to bar an employer

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

26 For the purposes of this subsection, a "bona fide executive" is a top  
27 level employee who exercises substantial executive authority over a  
28 significant number of employees and a large volume of business. A  
29 "high policy-making position" is a position in which a person plays a  
30 significant role in developing policy and in recommending the  
31 implementation thereof.

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

46 c. For any employer or employment agency to print or circulate or

1 cause to be printed or circulated any statement, advertisement or  
2 publication, or to use any form of application for employment, or to  
3 make an inquiry in connection with prospective employment, which  
4 expresses, directly or indirectly, any limitation, specification or  
5 discrimination as to race, creed, color, national origin, ancestry, age,  
6 marital status, affectional or sexual orientation or sex or liability of any  
7 applicant for employment for service in the Armed Forces of the  
8 United States, or any intent to make any such limitation, specification  
9 or discrimination, unless based upon a bona fide occupational  
10 qualification.

11 d. For any person to take reprisals against any person because that  
12 person has opposed or refused or failed to participate in any practices,  
13 policies, or acts which that person reasonably believes are forbidden  
14 under this act or because that person has filed a complaint, testified or  
15 assisted in any proceeding under this act or to coerce, intimidate,  
16 threaten or interfere with any person in the exercise or enjoyment of,  
17 or on account of that person having aided or encouraged any other  
18 person in the exercise or enjoyment of, any right granted or protected  
19 by this act.

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

23 f. For any owner, lessee, proprietor, manager, superintendent,  
24 agent, or employee of any place of public accommodation directly or  
25 indirectly to refuse, withhold from or deny to any person any of the  
26 accommodations, advantages, facilities or privileges thereof, or to  
27 discriminate against any person in the furnishing thereof, or directly or  
28 indirectly to publish, circulate, issue, display, post or mail any written  
29 or printed communication, notice, or advertisement to the effect that  
30 any of the accommodations, advantages, facilities, or privileges of any  
31 such place will be refused, withheld from, or denied to any person on  
32 account of the race, creed, color, national origin, ancestry, marital  
33 status, sex, affectional or sexual orientation, atypical hereditary  
34 cellular or blood trait of any individual or because of liability for  
35 service in the Armed Forces of the United States or nationality of such  
36 person, or that the patronage or custom thereof of any person of any  
37 particular race, creed, color, national origin, ancestry, marital status,  
38 sex, affectional or sexual orientation, atypical hereditary cellular or  
39 blood trait of any individual or because of liability for service in the  
40 Armed Forces of the United States or nationality is unwelcome,  
41 objectionable or not acceptable, desired or solicited, and the  
42 production of any such written or printed communication, notice or  
43 advertisement, purporting to relate to any such place and to be made  
44 by any owner, lessee, proprietor, superintendent or manager thereof,  
45 shall be presumptive evidence in any action that the same was  
46 authorized by such person; provided, however, that nothing contained

1 herein shall be construed to bar any place of public accommodation  
2 which is in its nature reasonably restricted exclusively to individuals of  
3 one sex, and which shall include but not be limited to any summer  
4 camp, day camp, or resort camp, bathhouse, dressing room, swimming  
5 pool, gymnasium, comfort station, dispensary, clinic or hospital, or  
6 school or educational institution which is restricted exclusively to  
7 individuals of one sex, from refusing, withholding from or denying to  
8 any individual of the opposite sex any of the accommodations,  
9 advantages, facilities or privileges thereof on the basis of sex; provided  
10 further that the foregoing limitation shall not apply to any restaurant  
11 as defined in R.S.33:1-1 or place where alcoholic beverages are  
12 served.

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

17 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
18 to deny to or withhold from any person or group of persons any real  
19 property or part or portion thereof because of the race, creed, color,  
20 national origin, ancestry, marital status, sex, affectional or sexual  
21 orientation, familial status, atypical hereditary cellular or blood trait  
22 of any individual or because of liability for service in the Armed Forces  
23 of the United States or nationality of such person or group of persons;

24 (2) To discriminate against any person or group of persons because  
25 of the race, creed, color, national origin, marital status [or], sex,  
26 affectional or sexual orientation or familial status, atypical hereditary  
27 cellular or blood trait of any individual or because of liability for  
28 service in the Armed Forces of the United States or nationality of such  
29 person or group of persons in the terms, conditions or privileges of the  
30 sale, rental or lease of any real property or part or portion thereof or  
31 in the furnishing of facilities or services in connection therewith; or

32 (3) To print, publish, circulate, issue, display, post or mail, or  
33 cause to be printed, published, circulated, issued, displayed, posted or  
34 mailed any statement, advertisement, publication or sign, or to use any  
35 form of application for the purchase, rental, lease, assignment or  
36 sublease of any real property or part or portion thereof, or to make  
37 any record or inquiry in connection with the prospective purchase,  
38 rental, lease, assignment, or sublease of any real property, or part or  
39 portion thereof which expresses, directly or indirectly, any limitation,  
40 specification or discrimination as to race, creed, color, national origin,  
41 ancestry, marital status, sex, affectional or sexual orientation, familial  
42 status, atypical hereditary cellular or blood trait of any individual or  
43 because of liability for service in the Armed Forces of the United  
44 States or nationality or any intent to make any such limitation,  
45 specification or discrimination, and the production of any such  
46 statement, advertisement, publicity, sign, form of application, record,

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

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

12 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
13 sale, rental, lease, assignment, or sublease any real property or part or  
14 portion thereof to any person or group of persons or to refuse to  
15 negotiate for the sale, rental, lease, assignment, or sublease of any real  
16 property or part or portion thereof to any person or group of persons  
17 because of the race, creed, color, national origin, ancestry, marital  
18 status, familial status, sex, affectional or sexual orientation, atypical  
19 hereditary cellular or blood trait of any individual or because of  
20 liability for service in the Armed Forces of the United States or  
21 nationality of such person or group of persons, or to represent that any  
22 real property or portion thereof is not available for inspection, sale,  
23 rental, lease, assignment, or sublease when in fact it is so available, or  
24 otherwise to deny or withhold any real property or any part or portion  
25 of facilities thereof to or from any person or group of persons because  
26 of the race, creed, color, national origin, ancestry, marital status,  
27 familial status, sex, affectional or sexual orientation, atypical  
28 hereditary cellular or blood trait of any individual or because of  
29 liability for service in the Armed Forces of the United States or  
30 nationality of such person or group of persons;

31 (2) To discriminate against any person because of his race, creed,  
32 color, national origin, ancestry, marital status, familial status, sex or  
33 affectional or sexual orientation, atypical hereditary cellular or blood  
34 trait of any individual or because of liability for service in the Armed  
35 Forces of the United States in the terms, conditions or privileges of the  
36 sale, rental, lease, assignment or sublease of any real property or part  
37 or portion thereof or in the furnishing of facilities or services in  
38 connection therewith; or

39 (3) To print, publish, circulate, issue, display, post, or mail, or  
40 cause to be printed, published, circulated, issued, displayed, posted or  
41 mailed any statement, advertisement, publication or sign, or to use any  
42 form of application for the purchase, rental, lease, assignment, or  
43 sublease of any real property or part or portion thereof or to make any  
44 record or inquiry in connection with the prospective purchase, rental,  
45 lease, assignment, or sublease of any real property or part or portion  
46 thereof which expresses, directly or indirectly, any limitation,

1 specification or discrimination as to race, creed, color, national origin,  
2 ancestry, marital status, familial status, sex, affectional or sexual  
3 orientation, atypical hereditary cellular or blood trait of any individual  
4 or because of liability for service in the Armed Forces of the United  
5 States or nationality or any intent to make any such limitation,  
6 specification or discrimination, and the production of any such  
7 statement, advertisement, publicity, sign, form of application, record,  
8 or inquiry purporting to be made by any such person shall be  
9 presumptive evidence in any action that the same was authorized by  
10 such person; provided, however, that nothing contained in this  
11 subsection h. shall be construed to bar any person from refusing to  
12 sell, rent, lease, assign or sublease or from advertising or recording a  
13 qualification as to sex for any room, apartment, flat in a dwelling or  
14 residential facility which is planned exclusively for and occupied  
15 exclusively by individuals of one sex to any individual of the opposite  
16 sex on the basis of sex.

17 i. For any person, bank, banking organization, mortgage company,  
18 insurance company or other financial institution, lender or credit  
19 institution to whom application is made for any loan or extension of  
20 credit including but not limited to an application for financial  
21 assistance for the purchase, acquisition, construction, rehabilitation,  
22 repair or maintenance of any real property or part or portion thereof  
23 or any agent or employee thereof:

24 (1) To discriminate against any person or group of persons because  
25 of the race, creed, color, national origin, ancestry, marital status, sex,  
26 affectional or sexual orientation, atypical hereditary cellular or blood  
27 trait of any individual or because of liability for service in the Armed  
28 Forces of the United States or nationality of such person or group of  
29 persons or of the prospective occupants or tenants of such real  
30 property or part or portion thereof, in the granting, withholding,  
31 extending, modifying or renewing, or in the fixing of the rates, terms,  
32 conditions or provisions of any such loan, extension of credit or  
33 financial assistance or in the extension of services in connection  
34 therewith; or

35 (2) To use any form of application for such loan, extension of  
36 credit or financial assistance or to make record or inquiry in  
37 connection with applications for any such loan, extension of credit or  
38 financial assistance which expresses, directly or indirectly, any  
39 limitation, specification or discrimination as to race, creed, color,  
40 national origin, ancestry, marital status, sex, affectional or sexual  
41 orientation, atypical hereditary cellular or blood trait of any individual  
42 or because of liability for service in the Armed Forces of the United  
43 States or nationality or intent to make any such limitation,  
44 specification or discrimination; unless otherwise required by law or  
45 regulation to retain or use such information.

46 (3) To discriminate on the basis of familial status in any manner

1 described in paragraphs (1) or (2) of this subsection with respect to  
2 any real property.

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

7 k. For any real estate broker, real estate salesperson or employee  
8 or agent thereof or any other individual, corporation, partnership, or  
9 organization, for the purpose of inducing a transaction for the sale or  
10 rental of real property from which transaction such person or any of  
11 its members may benefit financially, to represent that a change has  
12 occurred or will or may occur in the composition with respect to race,  
13 creed, color, national origin, ancestry, marital status, familial status,  
14 sex ,affectional or sexual orientation, atypical hereditary cellular or  
15 blood trait of any individual or because of liability for service in the  
16 Armed Forces of the United States or nationality of the owners or  
17 occupants in the block, neighborhood or area in which the real  
18 property is located, and to represent, directly or indirectly, that this  
19 change will or may result in undesirable consequences in the block,  
20 neighborhood or area in which the real property is located, including,  
21 but not limited to the lowering of property values, an increase in  
22 criminal or antisocial behavior, or a decline in the quality of schools or  
23 other facilities.

24 l. For any person [to]:

25 (1) To refuse to buy from, sell to, lease from or to, license,  
26 contract with, or trade with, provide goods, services or information to,  
27 or otherwise do business with any other person on the basis of the  
28 race, creed, color, national origin, ancestry, age, sex, affectional or  
29 sexual orientation, marital status, atypical hereditary cellular or blood  
30 trait of any individual, liability for service in the Armed Forces of the  
31 United States, or nationality of such other person or of such other  
32 person's spouse, partners, members, stockholders, directors, officers,  
33 managers, superintendents, agents, employees, business associates,  
34 suppliers, or customers. This subsection shall not prohibit refusals or  
35 other actions[(1)](a) pertaining to employee-employer collective  
36 bargaining, labor disputes, or unfair labor practices, or[(2)](b) made  
37 or taken in connection with a protest of unlawful discrimination or  
38 unlawful employment practices; or

39 (2) To discriminate in the granting or refusing of membership, or  
40 the terms and conditions of membership, of a business, trade or  
41 professional association (a) where membership is an economic  
42 necessity to successfully engaging in the business, trade or profession;  
43 or (b) where lack of membership imposes substantial barriers to  
44 successfully engaging in the business, trade or profession.

45 m. For any person to:

46 (1) Grant or accept any letter of credit or other document which

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

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

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

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

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

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

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

42

43 9. Section 26 of P.L.1945, c.169 (C.10:5-27) is amended to read  
44 as follows:

45 26. The provisions of this act shall be construed fairly and justly  
46 with due regard to the interests of all parties. Nothing contained in

1 this act shall be deemed to repeal any of the provisions of the Civil  
2 Rights Law or of any other law of this State relating to discrimination  
3 because of race, creed, color, national origin, ancestry, marital status,  
4 affectional or sexual orientation [or], sex, atypical hereditary cellular  
5 or blood trait or liability for service in the Armed Forces of the United  
6 States; except that, as to practices and acts declared unlawful by  
7 section 11 of this act, the procedure herein provided shall, while  
8 pending, be exclusive; and the final determination therein shall exclude  
9 any other action, civil or criminal, based on the same grievance of the  
10 individual concerned. Nothing herein contained shall bar, exclude or  
11 otherwise affect any right or action, civil or criminal, which may exist  
12 independently of any right to redress against or specific relief from any  
13 unlawful employment practice or unlawful discrimination. With respect  
14 only to affectional or sexual orientation, nothing contained herein shall  
15 be construed to require the imposition of affirmative action, plans or  
16 quotas as specific relief from an unlawful employment practice or  
17 unlawful discrimination.

18 (cf: P.L.1991, c.519, s.9)

19

20 10. This act shall take effect immediately.

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22

23

#### STATEMENT

24

25 This bill strengthens the "Law Against Discrimination" P.L.1945,  
26 c.169, N.J.S.A.10:5-1 et seq. by amending several provisions of the  
27 law with regard to discrimination in employment, housing and public  
28 accommodations as follows:

29 1. The bill amends N.J.S.A.10:5-4 (section 4 of the "Law Against  
30 Discrimination") to provide protection against discrimination in  
31 obtaining employment, housing and public accommodations to  
32 individuals who have an atypical hereditary cellular or blood trait such  
33 as sickle cell, Tay-Sachs or cystic fibrosis or to individuals who are  
34 subject to being inducted for service in the Armed Forces of the  
35 United States.

36 2. The bill amends N.J.S.A.10:5-5 (the definitional section of the  
37 "Law Against Discrimination") to include proprietary nursing homes,  
38 convalescent homes, homes for adults and intermediate care facilities  
39 in the definition of "a place of public accommodations". The bill also  
40 amends the term "real property" to include commercial space. The bill  
41 amends the term "handicapped" to include conditions which are  
42 regarded by others as handicapped.

43 3. The bill amends N.J.S.A.10:5-12 (section 11 of the "Law  
44 Against Discrimination") to provide that it is an unlawful employment  
45 practice for any person to discriminate in granting or refusing  
46 membership in any business, trade or professional association where

1 membership is an economic necessity to successfully engaging in the  
2 business or where denial of membership would impose substantial  
3 barriers to successfully engaging in the business, trade or profession.

4

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7

8 Amends various sections of the "Law Against Discrimination"  
9 including those concerning discrimination in employment, housing and  
10 public accomodations.