

SENATE, No. 2321

STATE OF NEW JERSEY

INTRODUCED DECEMBER 11, 1997

By Senators CAFIERO and O'CONNOR

1 AN ACT concerning the Law Against Discrimination and amending
2 various parts of the statutory law.

3

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

6

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

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

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

31 The Legislature further finds that because of discrimination, people
32 suffer personal hardships, and the State suffers a grievous harm. The
33 personal hardships include: economic loss; time loss; physical and
34 emotional stress; and in some cases severe emotional trauma, illness,

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 homelessness or other irreparable harm resulting from the strain of
2 employment controversies; relocation, search and moving difficulties;
3 anxiety caused by lack of information, uncertainty, and resultant
4 planning difficulty; career, education, family and social disruption; and
5 adjustment problems, which particularly impact on those protected by
6 this act. Such harms have, under the common law, given rise to legal
7 remedies, including compensatory and punitive damages. The
8 Legislature intends that such damages be available to all persons
9 protected by this act and that this act shall be liberally construed in
10 combination with other protections available under the laws of this
11 State.

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

13

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

16 4. All persons shall have the opportunity to obtain employment,
17 and to obtain all the accommodations, advantages, facilities, and
18 privileges of any place of public accommodation, publicly assisted
19 housing accommodation, and other real property without
20 discrimination because of race, creed, color, national origin, ancestry,
21 age, marital status, affectional or sexual orientation, familial status, or
22 sex, subject only to conditions and limitations applicable alike to all
23 persons. This opportunity is recognized as and declared to be a civil
24 right. Nothing in this section shall limit the Director's authority to a
25 adopt regulations which (1) permit a person with a disability who rents
26 or otherwise occupies a dwelling to undertake reasonable
27 modifications of existing premises or (2) require that a person with a
28 disability be accorded reasonable accommodations in rules, policies,
29 practices or services when such accommodations are necessary to
30 afford such person equal opportunity to use and enjoy a dwelling.

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

32

33 3. Section 2 of P.L.1972, c.114 (C.10:5-4.1) is amended to read as
34 follows:

35 2. [All of the provisions of the act to which this act is a
36 supplement shall be construed to prohibit any unlawful discrimination
37 against any person because such person is or has been at any time
38 handicapped or any unlawful employment practice against such person,
39 unless the nature and extent of the handicap reasonably precludes the
40 performance of the particular employment.]

41 It shall be unlawful discrimination under the "Law Against
42 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) to discriminate
43 against any buyer or renter because of the [handicap] disability of a
44 person residing in or intending to reside in a dwelling after it is sold,

1 rented or made available or because of any person associated with the
2 buyer or renter.

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

4

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

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

9 a. "Person" includes one or more individuals, partnerships,
10 associations, organizations, labor organizations, corporations, legal
11 representatives, trustees, trustees in bankruptcy, receivers, and
12 fiduciaries.

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

15 c. "Labor organization" includes any organization which exists and
16 is constituted for the purpose, in whole or in part, of collective
17 bargaining, or of dealing with employers concerning grievances, terms
18 or conditions of employment, or of other mutual aid or protection in
19 connection with employment.

20 d. "Unlawful employment practice" and "unlawful discrimination"
21 include only those unlawful practices and acts specified in section 11
22 of this act.

23 e. "Employer" includes all persons as defined in subsection a. of
24 this section unless otherwise specifically exempt under another section
25 of this act, and includes the State, any political or civil subdivision
26 thereof, and all public officers, agencies, boards or bodies.

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

29 g. "Liability for service in the Armed Forces of the United States"
30 means subject to being ordered as an individual or member of an
31 organized unit into active service in the Armed Forces of the United
32 States by reason of membership in the National Guard, naval militia or
33 a reserve component of the Armed Forces of the United States, or
34 subject to being inducted into such armed forces through a system of
35 national selective service.

36 h. "Division" means the "Division on Civil Rights" created by this
37 act.

38 i. "Attorney General" means the Attorney General of the State of
39 New Jersey or his representative or designee.

40 j. "Commission" means the Commission on Civil Rights created by
41 this act.

42 k. "Director" means the Director of the Division on Civil Rights.

43 l. "A place of public accommodation" shall include, but not be
44 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
45 camp, day camp, or resort camp, whether for entertainment of
46 transient guests or accommodation of those seeking health, recreation

1 or rest; any producer, manufacturer, wholesaler, distributor, retail
2 shop, store, establishment, or concession dealing with goods or
3 services of any kind; any restaurant, eating house, or place where food
4 is sold for consumption on the premises; any place maintained for the
5 sale of ice cream, ice and fruit preparations or their derivatives, soda
6 water or confections, or where any beverages of any kind are retailed
7 for consumption on the premises; any garage, any public conveyance
8 operated on land or water, or in the air, any stations and terminals
9 thereof; any bathhouse, boardwalk, or seashore accommodation; any
10 auditorium, meeting place, or hall; any theatre, motion-picture house,
11 music hall, roof garden, skating rink, swimming pool, amusement and
12 recreation park, fair, bowling alley, gymnasium, shooting gallery,
13 billiard and pool parlor, or other place of amusement; any comfort
14 station; any dispensary, clinic or hospital; any public library; any
15 kindergarten, primary and secondary school, trade or business school,
16 high school, academy, college and university, or any educational
17 institution under the supervision of the State Board of Education, or
18 the Commissioner of Education of the State of New Jersey. Nothing
19 herein contained shall be construed to include or to apply to any
20 institution, bona fide club, or place of accommodation, which is in its
21 nature distinctly private; nor shall anything herein contained apply to
22 any educational facility operated or maintained by a bona fide religious
23 or sectarian institution, and the right of a natural parent or one in loco
24 parentis to direct the education and upbringing of a child under his
25 control is hereby affirmed; nor shall anything herein contained be
26 construed to bar any private secondary or post secondary school from
27 using in good faith criteria other than race, creed, color, national
28 origin, ancestry or affectional or sexual orientation, nationality or
29 disability in the admission of students.

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

37 n. The term "real property" includes real estate, lands, tenements
38 and hereditaments, corporeal and incorporeal, and leaseholds,
39 provided, however, that, except as to publicly assisted housing
40 accommodations, the provisions of this act shall not apply to the
41 rental: (1) of a single apartment or flat in a two-family dwelling, the
42 other occupancy unit of which is occupied by the owner as a residence
43 or the household of the owner's family at the time of such rental; or (2)
44 of a room or rooms to another person or persons by the owner or
45 occupant of a one-family dwelling occupied by the owner or occupant
46 as a residence or the household of the owner's or occupant's family at

1 the time of such rental. Nothing herein contained shall be construed
2 to bar any religious or denominational institution or organization, or
3 any organization operated for charitable or educational purposes,
4 which is operated, supervised or controlled by or in connection with
5 a religious organization, in the sale, lease or rental of real property,
6 from limiting admission to or giving preference to persons of the same
7 religion or denomination or from making such selection as is
8 calculated by such organization to promote the religious principles for
9 which it is established or maintained. Nor does any provision under
10 this act regarding discrimination on the basis of familial status apply
11 with respect to housing for older persons.

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

34 p. "Real estate salesperson" includes any person who, for
35 compensation, valuable consideration or commission, or other thing of
36 value, or by reason of a promise or reasonable expectation thereof, is
37 employed by and operates under the supervision of a licensed real
38 estate broker to sell or offer to sell, buy or offer to buy or negotiate
39 the purchase, sale or exchange of real estate, or offers or attempts to
40 negotiate a loan secured or to be secured by a mortgage or other
41 encumbrance upon or transfer of real estate, or to lease or rent, or
42 offer to lease or rent any real estate for others, or to collect rents for
43 the use of real estate, or to solicit for prospective purchasers or lessees
44 of real estate, or who is employed by a licensed real estate broker to
45 sell or offer to sell lots or other parcels of real estate, at a stated
46 salary, or upon a commission, or upon a salary and commission, or

1 otherwise to sell real estate, or any parts thereof, in lots or other
2 parcels.

3 q. ["Handicapped"] "Disability" means [suffering from] physical
4 disability, infirmity, malformation or disfigurement which is caused by
5 bodily injury, birth defect or illness including epilepsy, and which shall
6 include, but not be limited to, any degree of paralysis, amputation, lack
7 of physical coordination, blindness or visual impediment, deafness or
8 hearing impediment, muteness or speech impediment or physical
9 reliance on a service or guide [dog] animal, wheelchair, or other
10 remedial appliance or device, or from any mental, psychological or
11 developmental disability resulting from anatomical, psychological,
12 physiological or neurological conditions which prevents the normal
13 exercise of any bodily or mental functions or is demonstrable,
14 medically or psychologically, by accepted clinical or laboratory
15 diagnostic techniques. [Handicapped] Disability shall also [mean]
16 include suffering from AIDS or HIV infection. All of the provisions
17 of the act shall be construed to prohibit any unlawful discrimination or
18 employment practice against any person because such person has a
19 disability or has, at any time, had a disability, or is or has been at any
20 time perceived as having a disability, unless the nature and extent of
21 the disability preclude the person's performance of the particular
22 employment even with reasonable accommodation.

23 r. "Blind person" means any individual whose central visual acuity
24 does not exceed 20/200 in the better eye with correcting lens or whose
25 visual acuity is better than 20/200 if accompanied by a limit to the field
26 of vision in the better eye to such a degree that its widest diameter
27 subtends an angle of no greater than 20 degrees.

28 s. "Guide [dog] animal" means [a dog] an animal used to assist
29 [deaf persons] people with disabilities or [which] an animal that is
30 fitted with a special harness so as to be suitable as an aid to the
31 mobility of a [blind] person with a disability, and is used by a [blind]
32 person with disability who has satisfactorily completed a specific
33 course of training in the use of such [a dog] an animal, and has been
34 trained by an organization generally recognized by agencies involved
35 in the rehabilitation of [the blind or deaf] people with disabilities as
36 reputable and competent to provide [dogs] animals with training of
37 this type.

38 t. "Guide or service [dog] animal trainer" means any person who
39 is employed by an organization generally recognized by agencies
40 involved in the rehabilitation of [the blind, handicapped or deaf]
41 people with disabilities as reputable and competent to provide [dogs]
42 animals with training, and who is actually involved in the training
43 process.

44 u. "Housing accommodation" means any publicly assisted housing
45 accommodation or any real property, or portion thereof, which is used
46 or occupied, or is intended, arranged, or designed to be used or

1 occupied, as the home, residence or sleeping place of one or more
2 persons, but shall not include any single family residence the occupants
3 of which rent, lease, or furnish for compensation not more than one
4 room therein.

5 v. "Public facility" means any place of public accommodation and
6 any street, highway, sidewalk, walkway, public building, and any other
7 place or structure to which the general public is regularly, normally or
8 customarily permitted or invited.

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

14 x. "Atypical hereditary cellular or blood trait" means sickle cell
15 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
16 fibrosis trait.

17 y. "Sickle cell trait" means the condition wherein the major natural
18 hemoglobin components present in the blood of the individual are
19 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
20 defined by standard chemical and physical analytic techniques,
21 including electrophoresis; and the proportion of hemoglobin A is
22 greater than the proportion of hemoglobin S or one natural parent of
23 the individual is shown to have only normal hemoglobin components
24 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
25 proportions by standard chemical and physical analytic tests.

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

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

38 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
39 which in combination with another similar gene results in the chronic
40 hereditary disease Tay-Sachs.

41 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
42 gene which in combination with another similar gene results in the
43 chronic hereditary disease cystic fibrosis.

44 dd. "Service [dog] animal" means any [dog] animal individually
45 trained to [a handicapped person]'s the requirements of a person with
46 a disability including, but not limited to minimal protection work,

- 1 rescue work, pulling a wheelchair or retrieving dropped items.
- 2 ee. "Qualified Medicaid applicant" means an individual who is a
3 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 4 ff. "AIDS" means acquired immune deficiency syndrome as defined
5 by the Centers for Disease Control of the United States Public Health
6 Service.
- 7 gg. "HIV infection" means infection with the human
8 immunodeficiency virus or any other related virus identified as a
9 probable causative agent of AIDS.
- 10 hh. "Affectional or sexual orientation" means male or female
11 heterosexuality, homosexuality or bisexuality by inclination, practice,
12 identity or expression, having a history thereof or being perceived,
13 presumed or identified by others as having such an orientation.
- 14 ii. "Heterosexuality" means affectional, emotional or physical
15 attraction or behavior which is primarily directed towards persons of
16 the other gender.
- 17 jj. "Homosexuality" means affectional, emotional or physical
18 attraction or behavior which is primarily directed towards persons of
19 the same gender.
- 20 kk. "Bisexuality" means affectional, emotional or physical
21 attraction or behavior which is directed towards persons of either
22 gender.
- 23 ll. "Familial status" means being the natural parent of a child, the
24 adoptive parent of a child, the foster parent of a child, having a "parent
25 and child relationship" with a child as defined by State law, or having
26 sole or joint legal or physical custody, care, guardianship, or visitation
27 with a child, or any person who is pregnant or is in the process of
28 securing legal custody of any individual who has not attained the age
29 of 18 years.
- 30 mm. "Housing for older persons" means housing:
- 31 (1) provided under any State or federal program that the Attorney
32 General determines is specifically designed and operated to assist
33 elderly persons (as defined in the State or federal program); or
- 34 (2) intended for, and solely occupied by persons 62 years of age or
35 older; or
- 36 (3) intended and operated for occupancy by at least one person 55
37 years of age or older per unit. In determining whether housing
38 qualifies as housing for older persons under this subsection, the
39 Attorney General shall adopt regulations which require at least the
40 following factors:
- 41 (a) the existence of significant facilities and services specifically
42 designed to meet the physical or social needs of older persons, or if the
43 provision of such facilities and services is not practicable, that such
44 housing is necessary to provide important housing opportunities for
45 older persons; and
- 46 (b) that at least 80 percent of the units are occupied by at least one

1 person 55 years of age or older per unit; and

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

5 Housing shall not fail to meet the requirements for housing for
6 older persons by reason of: persons residing in such housing as of
7 March 12, 1989 not meeting the age requirements of this subsection,
8 provided that new occupants of such housing meet the age
9 requirements of this subsection; or unoccupied units, provided that
10 such units are reserved for occupancy by persons who meet the age
11 requirements of this subsection.

12 nn. "Genetic characteristic" means any inherited gene or
13 chromosome, or alteration thereof, that is scientifically or medically
14 believed to predispose an individual to a disease, disorder or
15 syndrome, or to be associated with a statistically significant increased
16 risk of development of a disease, disorder or syndrome.

17 oo. "Genetic information" means the information about genes, gene
18 products or inherited characteristics that may derive from an individual
19 or family member.

20 pp. "Genetic test" means a test for determining the presence or
21 absence of an inherited genetic characteristic in an individual, including
22 tests of nucleic acids such as DNA, RNA and mitochondrial DNA,
23 chromosomes or proteins in order to identify a predisposing genetic
24 characteristic.

25 (cf: P.L.1996, c.126, s.4)

26

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

29 6. There is created in the Department of Law and Public Safety a
30 division known as "The Division on Civil Rights" with power to
31 prevent and eliminate discrimination in the manner prohibited by this
32 act against persons because of race, creed, color, national origin,
33 ancestry, age, marital status, affectional or sexual orientation, familial
34 status, nationality, disability or sex or because of their liability for
35 service in the Armed Forces of the United States, by employers, labor
36 organizations, employment agencies or other persons and to take other
37 actions against discrimination because of race, creed, color, national
38 origin, ancestry, marital status, sex, familial status, nationality,
39 disability or age or because of their liability for service in the Armed
40 Forces of the United States, as herein provided; and the division
41 created hereunder is given general jurisdiction and authority for such
42 purposes.

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

44

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

- 1 8. The Attorney General shall:
- 2 a. Exercise all powers of the division not vested in the commission.
- 3 b. Administer the work of the division.
- 4 c. Organize the division into sections, which shall include but not
- 5 be limited to a section which shall receive, investigate, and act upon
- 6 complaints alleging discrimination against persons because of race,
- 7 creed, color, national origin, ancestry, age, marital status, affectional
- 8 or sexual orientation, familial status, nationality, disability or sex or
- 9 because of their liability for service in the Armed Forces of the United
- 10 States; and another which shall, in order to eliminate prejudice and to
- 11 further good will among the various racial and religious and nationality
- 12 groups in this State, study, recommend, prepare and implement, in
- 13 cooperation with such other departments of the State Government or
- 14 any other agencies, groups or entities both public and private, such
- 15 educational and human relations programs as are consonant with the
- 16 objectives of this act; and prescribe the organization of said sections
- 17 and the duties of his subordinates and assistants.
- 18 d. Appoint a Director of the Division on Civil Rights, who shall act
- 19 for the Attorney General, in the Attorney General's place and with the
- 20 Attorney General's powers, which appointment shall be subject to the
- 21 approval of the commission and the Governor, a deputy director and
- 22 such assistant directors, field representatives and assistants as may be
- 23 necessary for the proper administration of the division and fix their
- 24 compensation within the limits of available appropriations. The
- 25 director, deputy director, assistant directors, field representatives and
- 26 assistants shall not be subject to the Civil Service Act and shall be
- 27 removable by the Attorney General at will.
- 28 e. Appoint such clerical force and employees as the Attorney
- 29 General may deem necessary and fix their duties, all of whom shall be
- 30 subject to the Civil Service Act.
- 31 f. Maintain liaison with local and State officials and agencies
- 32 concerned with matters related to the work of the division.
- 33 g. Adopt, promulgate, amend, and rescind suitable rules and
- 34 regulations to carry out the provisions of this act.
- 35 h. Conduct investigations, receive complaints and conduct hearings
- 36 thereon other than those complaints received and hearings held
- 37 pursuant to the provisions of this act.
- 38 i. In connection with any investigation or hearing held pursuant to
- 39 the provisions of this act, subpoena witnesses, compel their
- 40 attendance, administer oaths, take the testimony of any person, under
- 41 oath, and, in connection therewith, require the production for
- 42 examination of any books or papers relating to any subject matter
- 43 under investigation or in question by the division and conduct such
- 44 discovery procedures which may include the taking of interrogatories
- 45 and oral depositions as shall be deemed necessary by the Attorney
- 46 General in any investigation. The Attorney General may make rules

1 as to the issuance of subpoenas by the director. The failure of any
2 witness when duly subpoenaed to attend, give testimony, or produce
3 evidence shall be punishable by the Superior Court of New Jersey in
4 the same manner as such failure is punishable by such court in a case
5 therein pending.

6 j. Issue such publications and such results of investigations and
7 research tending to promote good will and to minimize or eliminate
8 discrimination because of race, creed, color, national origin, ancestry,
9 age, marital status, affectional or sexual orientation, familial status,
10 nationality, disability or sex, as the commission shall direct, subject to
11 available appropriations.

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

14 l. Appoint, subject to the approval of the commission, a panel of
15 not more than five hearing examiners, each of whom shall be duly
16 licensed to practice law in this State for a period of at least five years,
17 and each to serve for a term of one year and until his successor is
18 appointed, any one of whom the director may designate in his place to
19 conduct any hearing and recommend findings of fact and conclusions
20 of law. The hearing examiners shall receive such compensation as may
21 be determined by the Attorney General, subject to available
22 appropriations.

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

24

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

27 1. The Division on Civil Rights in the Department of Law and
28 Public Safety shall enforce the laws of this State against discrimination
29 in housing built with public funds or public assistance, pursuant to any
30 law, and in real property, as defined in the law hereby supplemented,
31 because of race, religious principles, color, national origin, ancestry,
32 marital status, affectional or sexual orientation, familial status,
33 nationality, disability or sex. The said laws shall be so enforced in the
34 manner prescribed in the act.

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

36

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

39 9. The commission shall:

40 a. Consult with and advise the Attorney General with respect to the
41 work of the division.

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

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

46 The mayors or chief executive officers of the municipalities in the

1 State may appoint local commissions on civil rights to aid in
2 effectuating the purposes of this act. Such local commissions shall be
3 composed of representative citizens serving without compensation.
4 Such commissions shall attempt to foster through community effort or
5 otherwise, good will, cooperation and conciliation among the groups
6 and elements of the inhabitants of the community, and they may be
7 empowered by the local governing bodies to make recommendations
8 to them for the development of policies and procedures in general and
9 for programs of formal and informal education that will aid in
10 eliminating all types of discrimination based on race, creed, color,
11 national origin, ancestry, age, marital status, affectional or sexual
12 orientation, familial status, nationality, disability or sex.
13 (cf: P.L.1992, c.146, s.8)

14

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

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

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

1 establishing and utilizing criteria for employment of an employee;
2 provided further, that it shall not be an unlawful employment practice
3 to require the retirement of any employee who has attained 65 years
4 of age and who, for the two-year period immediately before
5 retirement, is employed in a bona fide executive or a high
6 policy-making position, if that employee is entitled to an immediate
7 non-forfeitable annual retirement benefit from a pension, profit
8 sharing, savings or deferred retirement plan, or any combination of
9 those plans, of the employer of that employee which equals in the
10 aggregate at least [~~\$27,000.00~~]\$44,000; and provided further that an
11 employer may restrict employment to citizens of the United States
12 where such restriction is required by federal law or is otherwise
13 necessary to protect the national interest.

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

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

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

45 d. For any person to take reprisals against any person because that
46 person has opposed any practices or acts forbidden under this act or

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

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

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

41 (2) Notwithstanding the definition of "public accommodation" as
42 set forth in subsection 1. of section 5 of P.L.1945, c.169 (C.10:5-5),
43 for any owner, lessee, proprietor, manager, superintendent, agent, or
44 employee of any private club or association to directly or indirectly
45 refuse, withhold from or deny to any individual who has been accepted
46 as a club member and has contracted for or is otherwise entitled to full

1 club membership any of the accommodations, advantages, facilities or
2 privileges thereof, or to discriminate against any member in the
3 furnishing thereof on account of the race, creed, color, national origin,
4 ancestry, marital status, sex, affectional or sexual orientation or
5 nationality of such person.

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

14 g. For[the] any person, including but not limited to, any owner,
15 lessee, sublessee, assignee or managing agent of, or other person
16 having the right of ownership or possession of or the right to sell, rent,
17 lease, assign, or sublease any real property or part or portion thereof,
18 or any agent or employee of any of these:

19 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
20 to deny to or withhold from any person or group of persons any real
21 property or part or portion thereof because of [the] race, creed, color,
22 national origin, ancestry, marital status, sex, affectional or sexual
23 orientation, familial status, disability or nationality [of such person or
24 group of persons];

25 (2) To discriminate against any person or group of persons because
26 of [the] race, creed, color, national origin, ancestry, marital status,
27 sex, affectional or sexual orientation [or] , familial status, disability or
28 nationality [of such person or group of persons] in the terms,
29 conditions or privileges of the sale, rental or lease of any real property
30 or part or portion thereof or in the furnishing of facilities or services
31 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, disability or nationality, or any intent to make any such
43 limitation, specification or discrimination, and the production of any
44 such statement, advertisement, publicity, sign, form of application,
45 record, or inquiry purporting to be made by any such person shall be
46 presumptive evidence in any action that the same was authorized by

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

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

10 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
11 sale, rental, lease, assignment, or sublease any real property or part or
12 portion thereof to any person or group of persons or to refuse to
13 negotiate for the sale, rental, lease, assignment, or sublease of any real
14 property or part or portion thereof to any person or group of persons
15 because of [the] race, creed, color, national origin, ancestry, marital
16 status, familial status, sex, affectional or sexual orientation, disability
17 or nationality [of such person or group of persons], or to represent
18 that any real property or portion thereof is not available for inspection,
19 sale, rental, lease, assignment, or sublease when in fact it is so
20 available, or otherwise to deny or withhold any real property or any
21 part or portion of facilities thereof to or from any person or group of
22 persons because of [the] race, creed, color, national origin, ancestry,
23 marital status, familial status, sex, affectional or sexual orientation,
24 disability or nationality[of such person or group of persons];

25 (2) To discriminate against any person because of [his] race, creed,
26 color, national origin, ancestry, marital status, familial status, sex [or]
27 affectional or sexual orientation, disability or nationality in the terms,
28 conditions or privileges of the sale, rental, lease, assignment or
29 sublease of any real property or part or portion thereof or in the
30 furnishing of facilities or services in connection therewith; or

31 (3) To print, publish, circulate, issue, display, post, or mail, or
32 cause to be printed, published, circulated, issued, displayed, posted or
33 mailed any statement, advertisement, publication or sign, or to use any
34 form of application for the purchase, rental, lease, assignment, or
35 sublease of any real property or part or portion thereof or to make any
36 record or inquiry in connection with the prospective purchase, rental,
37 lease, assignment, or sublease of any real property or part or portion
38 thereof which expresses, directly or indirectly, any limitation,
39 specification or discrimination as to race, creed, color, national origin,
40 ancestry, marital status, familial status, sex, affectional or sexual
41 orientation, disability or nationality or any intent to make any such
42 limitation, specification or discrimination, and the production of any
43 such statement, advertisement, publicity, sign, form of application,
44 record, or inquiry purporting to be made by any such person shall be
45 presumptive evidence in any action that the same was authorized by
46 such person; provided, however, that nothing contained in this

1 subsection h. shall be construed to bar any person from refusing to
2 sell, rent, lease, assign or sublease or from advertising or recording a
3 qualification as to sex for any room, apartment, flat in a dwelling or
4 residential facility which is planned exclusively for and occupied
5 exclusively by individuals of one sex to any individual of the opposite
6 sex on the basis of sex.

7 i. For any person, bank, banking organization, mortgage company,
8 insurance company or other financial institution, lender or credit
9 institution [to whom application is made for] involved in making or
10 purchasing any loan or extension of credit including but not limited to
11 [an application for] financial assistance for the purchase, acquisition,
12 construction, rehabilitation, repair or maintenance of any real property
13 or part or portion thereof or any agent or employee thereof:

14 (1) To discriminate against any person or group of persons because
15 of [the] race, creed, color, national origin, ancestry, marital status,
16 sex, affectional or sexual orientation, disability or nationality [of such
17 person or group of persons or of the prospective occupants or tenants
18 of such real property or part or portion thereof,] in the granting,
19 withholding, extending, modifying [or] , renewing [,] or purchasing, or
20 in the fixing of the rates, terms, conditions or provisions of any such
21 loan, extension of credit or financial assistance or purchase thereof or
22 in the extension of services in connection therewith; or

23 (2) To use any form of application for such loan, extension of
24 credit or financial assistance or to make record or inquiry in
25 connection with applications for any such loan, extension of credit or
26 financial assistance which expresses, directly or indirectly, any
27 limitation, specification or discrimination as to race, creed, color,
28 national origin, ancestry, marital status, sex, affectional or sexual
29 orientation, disability or nationality or any intent to make any such
30 limitation, specification or discrimination; unless otherwise required by
31 law or regulation to retain or use such information; or

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

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

39 k. For any real estate broker, real estate salesperson or employee
40 or agent thereof or any other individual, corporation, partnership, or
41 organization, for the purpose of inducing a transaction for the sale or
42 rental of real property from which transaction such person or any of
43 its members may benefit financially, to represent that a change has
44 occurred or will or may occur in the composition with respect to race,
45 creed, color, national origin, ancestry, marital status, familial status,
46 sex, affectional or sexual orientation, disability or nationality of the

1 owners or occupants in the block, neighborhood or area in which the
2 real property is located, and to represent, directly or indirectly, that
3 this change will or may result in undesirable consequences in the
4 block, neighborhood or area in which the real property is located,
5 including, but not limited to the lowering of property values, an
6 increase in criminal or anti-social behavior, or a decline in the quality
7 of schools or other facilities.

8 1. For any person to refuse to buy from, sell to, lease from or to,
9 license, contract with, or trade with, provide goods, services or
10 information to, or otherwise do business with any other person on the
11 basis of [the] race, creed, color, national origin, ancestry, age, sex,
12 affectional or sexual orientation, marital status, liability for service in
13 the Armed Forces of the United States, disability or nationality of such
14 other person or of such other person's spouse, partners, members,
15 stockholders, directors, officers, managers, superintendents, agents,
16 employees, business associates, suppliers, or customers. This
17 subsection shall not prohibit refusals or other actions (1) pertaining to
18 employee-employer collective bargaining, labor disputes, or unfair
19 labor practices, or (2) made or taken in connection with a protest of
20 unlawful discrimination or unlawful employment practices.

21 m. For any person to:

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

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

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

45 n. For any person to aid, abet, incite, compel, coerce, or induce the
46 doing of any act forbidden by subsections l. and m. of [section 11 of

1 P.L.1945, c.169 (C.10:5-12)] this section, or to attempt, or to
2 conspire to do so. Such prohibited conduct shall include, but not be
3 limited to:

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

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

18 (cf: 1997, c.179, s.1)

19

20 10. Section 12 of P.L.1992, c.146 (C.10:5-12.5) is amended to
21 read as follows:

22 12. a. It shall be an unlawful discrimination for a municipality,
23 county or other local civil or political subdivision of the State of New
24 Jersey, or an officer, employee, or agent thereof, to exercise the power
25 to regulate land use or housing in a manner that discriminates on the
26 basis of race, creed, color, national origin, ancestry, marital status,
27 familial status, sex, nationality or [handicap] disability.

28 b. Notwithstanding the provisions of section 12 of P.L.1945, c.169
29 (C.10:5-13) any person claiming to be aggrieved by an unlawful
30 discrimination under this section shall enforce this section by private
31 right of action in Superior Court. This [section] subsection shall not
32 apply to discrimination in housing owned or managed by a
33 municipality, county or other local civil or political subdivision of the
34 State of New Jersey where such discrimination is otherwise prohibited
35 by section 11 of P.L.1945, c.169 (C.10:5-12).

36 (cf: P.L.1992, c.146, s.12)

37

38 11. Section 12 of P.L.1945, c.169 (C.10:5-13) is amended to read
39 as follows:

40 12. Any person claiming to be aggrieved by an unlawful
41 employment practice or an unlawful discrimination may, personally or
42 by an attorney-at-law, make, sign and file with the division a verified
43 complaint in writing which shall state the name and address of the
44 person, employer, labor organization, employment agency, owner,
45 lessee, proprietor, manager, superintendent, or agent alleged to have
46 committed the unlawful employment practice or unlawful

1 discrimination complained of and which shall set forth the particulars
2 thereof and shall contain such other information as may be required by
3 the division. Upon receipt of the complaint, the division shall notify
4 the complainant on a form promulgated by the director of the division
5 and approved by the Attorney General of the complainant's rights
6 under this act, including the right to file a complaint in the Superior
7 Court to be heard before a jury; of the jurisdictional limitations of the
8 division; and any other provisions of this act, without interpretation,
9 that may apply to the complaint. The Commissioner of Labor, the
10 Attorney General, or the Commissioner of Education may, in like
11 manner, make, sign and file such complaint. Any employer whose
12 employees, or some of them, refuse or threaten to refuse to co-operate
13 with the provisions of this act, may file with the division a verified
14 complaint asking for assistance by conciliation or other remedial
15 action.

16 Any complainant may initiate suit in Superior Court under this act
17 without first filing a complaint with the division or any municipal
18 office. Upon the application of any party, a jury trial shall be directed
19 to try the validity of any claim under this act specified in the suit. All
20 remedies available in common law tort actions shall be available to
21 prevailing plaintiffs. These remedies are in addition to any provided
22 by this act or any other statute. Prosecution of such suit in Superior
23 Court under this act shall bar the filing of a complaint with the division
24 or any municipal office during the pendency of any such suit. Except
25 as otherwise provided in P.L. , c. (now pending before the
26 Legislature as this bill), a complainant who has filed a complaint with
27 the division may withdraw such complaint to file suit in Superior Court
28 within the time limits provided for such a judicial action.

29 At any time after [180] 60 days from the filing of a complaint with
30 the division, a complainant may file a request with the division to
31 present the action personally or through counsel to the Office of
32 Administrative Law. Upon such request, [the director of the division
33 shall file the action with the Office of Administrative Law, provided
34 that no action may be filed with the Office of Administrative Law
35 where the director of the division has found that no probable cause
36 exists to credit the allegations of the complaint or has otherwise
37 dismissed the complaint] or upon a finding by the director that it
38 cannot be determined from the available evidence whether there is
39 probable cause to credit the allegations of the complaint, the director
40 may afford the complainant the opportunity to present the action at the
41 Office of Administrative Law either personally or through counsel.
42 The director is not required to provide a complainant with legal
43 representation by the attorney for the division in any action filed with
44 the Office of Administrative Law pursuant to this section.

45 A party to an action based upon a violation of this act shall mail a
46 copy of the initial pleadings or claims, amended pleadings or claims,

1 counterclaims, briefs, and legal memoranda to the division at the same
2 time as filing such documents with the Office of Administrative Law
3 or the court. Upon application to the Office of Administrative Law or
4 to the court wherein the matter is pending, the division shall be
5 permitted to intervene.

6 (cf: P.L.1990, c.12, s.2)

7

8 12. Section 13 of P.L.1945, c.169 (C.10:5-14) is amended to read
9 as follows:

10 13. After the filing of any complaint, the Attorney General shall
11 cause prompt investigation to be made in connection therewith and
12 advise the complainant of the results thereof. If the Attorney General
13 shall determine after such investigation that probable cause exists for
14 crediting the allegations of the complaint, the Attorney General shall
15 immediately endeavor to eliminate the unlawful employment practice
16 or the unlawful discrimination complained of by conference,
17 conciliation and persuasion during a period terminating not later than
18 45 days from the date of the finding of probable cause. At any time
19 prior to a finding that probable cause exists to credit the allegations of
20 the complaint, the Attorney General may require both parties to
21 engage in mediation pursuant to rules or regulations promulgated by
22 the Attorney General. Neither the Attorney General nor any officer or
23 employee of the division shall disclose any conversation between the
24 Attorney General or a representative and the respondent or a
25 representative at such conference, except that the Attorney General
26 and any officer or employee may disclose the terms of a settlement
27 offer to the complainant or other aggrieved person on whose behalf
28 the complaint was filed.

29 (cf: P.L.1992, c.146, s.10)

30

31 13. Section 2 of P.L.1983, c.412 (C.10:5-14.1a) is amended to
32 read as follows:

33 2. Any person who violates any of the provisions of the "Law
34 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), shall, in
35 addition to any of the relief or affirmative action provided by law, be
36 liable [to a penalty of not more than \$2,000.00 for the first offense and
37 not more than \$5,000.00 for the second and each subsequent offense.]
38 for the following penalties:

39 a. In an amount not exceeding \$10,000 if the respondent has not
40 been adjudged to have committed any prior violation within the five-
41 year period ending on the date of the filing of this charge;

42 b. In an amount not exceeding \$25,000 if the respondent has been
43 adjudged to have committed one other violation during the five-year
44 period ending on the date of the filing of this charge; and

45 c. In an amount not exceeding \$50,000 if the respondent has been
46 adjudged to have committed two or more violations during the seven

1 year period ending on the date of the filing of this charge; except that
2 if the acts constituting the violation that is the object of the charge are
3 committed by the same natural person who has been previously
4 adjudged to have committed acts constituting a violation, then the civil
5 penalties set forth in subparagraphs b. and c. may be imposed without
6 regard to the period of time within which any subsequent violations
7 occurred. The penalties shall be determined by the director in such
8 amounts as he deems proper under the circumstances and included in
9 his order following his finding of an unlawful discrimination or an
10 unlawful employment practice pursuant to section 16 of P.L.1945,
11 c.169 (C.10:5-17). Any such amounts collected by the director shall
12 be paid forthwith into the State Treasury for the general purposes of
13 the State.

14 (cf: P.L.1983, c.412, s.2)

15

16 14. Section 16 of P.L.1945, c.169 (C.10:5-17) is amended to read
17 as follows:

18 16. If, upon all evidence at the hearing, the director shall find that
19 the respondent has engaged in any unlawful employment practice or
20 unlawful discrimination as defined in this act, the director shall state
21 his findings of fact and conclusions of law and shall issue and cause
22 to be served on such respondent an order requiring such respondent
23 to cease and desist from such unlawful employment practice or
24 unlawful discrimination and to take such affirmative action, including,
25 but not limited to, hiring, reinstatement or upgrading of employees,
26 with or without back pay, or restoration to membership, in any
27 respondent labor organization, or extending full and equal
28 accommodations, advantages, facilities, and privileges to all persons,
29 as, in the judgment of the director, will effectuate the purpose of this
30 act, and including a requirement for report of the manner of
31 compliance. If the conduct violative of this act constitutes any form
32 of unlawful economic discrimination prohibited in section 11,
33 subsections 1., m., and n. of this act, the affirmative action taken by
34 the director may include the award of three-fold damages to the person
35 or persons aggrieved by the violation. The director shall have the
36 power to use reasonably certain bases, including but not limited to
37 list, catalogue or market prices or values, or contract or advertised
38 terms and conditions, in order to determine particulars or performance
39 in giving appropriate remedy. All compensatory remedies available in
40 common law tort actions shall be available to prevailing complainants,
41 including full damages to compensate for emotional distress. These
42 remedies are in addition to any other remedies provided by this act.
43 In any case in which the director, Attorney General, or appropriate
44 organization is a complainant, on behalf of unnamed individuals or a
45 class of individuals, any of the remedies or relief allowed by this act
46 may be awarded or applied to the unnamed individual victims of

1 discrimination. If, upon all evidence, the director shall find that the
2 respondent has not engaged in any such unlawful practice or unlawful
3 discrimination, the director shall state his findings of fact and
4 conclusions of law and shall issue and cause to be served on the
5 complainant an order dismissing the said complaint as to such
6 respondent.

7 (cf: P.L.1979, c.404, s.3)

8

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

11 26. The provisions of this act shall be construed fairly and justly
12 with due regard to the interests of all parties. Nothing contained in
13 this act shall be deemed to repeal any of the provisions of the Civil
14 Rights Law or of any other law of this State relating to discrimination
15 because of race, creed, color, national origin, ancestry, marital status,
16 affectional or sexual orientation, nationality, disability or sex or
17 liability for service in the Armed Forces of the United States; except
18 that, as to practices and acts declared unlawful by section 11 of this
19 act, the procedure herein provided shall, while pending, be exclusive;
20 and, except as otherwise provided by P.L. , c. (now pending before
21 the Legislature as this bill), the final determination therein shall
22 exclude any other action, civil or criminal, based on the same
23 grievance of the individual concerned. Nothing herein contained shall
24 bar, exclude or otherwise affect any right or action, civil or criminal,
25 which may exist independently of any right to redress against or
26 specific relief from any unlawful employment practice or unlawful
27 discrimination. With respect only to affectional or sexual orientation,
28 nothing contained herein shall be construed to require the imposition
29 of affirmative action, plans or quotas as specific relief from an
30 unlawful employment practice or unlawful discrimination.

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

32

33 16. Section 6 of P.L.1979, c.404 (C.10:5-27.1) is amended to read
34 as follows:

35 6. In any action or proceeding brought under this act, the
36 prevailing party may be awarded a reasonable attorney's fee as part of
37 the cost, provided however, that no attorney's fee shall be awarded to
38 the respondent unless there is a determination that the complainant
39 brought the charge [was brought] in bad faith. If the complainant's
40 case was presented by the attorney for the division and the
41 complainant prevailed, the reasonable costs, including attorneys fees,
42 of such representation may be assessed against a nonprevailing
43 respondent.

44 (cf: P.L.1979, c.404, s.6)

1 17. Section 1 of P.L.1971, c.130 (C.10:5-29) is amended to read
2 as follows:

3 1. Any [handicapped, blind or deaf] person with a disability
4 accompanied by a service or guide [dog] animal trained by a
5 recognized training agency or school is entitled, with his or her [dog]
6 animal, to the full and equal enjoyment, advantages, facilities and
7 privileges of all public facilities, subject only to the following
8 conditions:

9 a. A [handicapped, blind or deaf] person with a disability, if
10 accompanied by a service or guide [dog] animal, shall keep such [dog]
11 animal in his or her immediate custody at all times;

12 b. A [handicapped, blind or deaf] person with a disability
13 accompanied by a service or guide [dog] animal shall not be charged
14 any extra fee or payment for admission to or use of any public facility;

15 c. A [handicapped, blind or deaf] person with a disability who has
16 a service or guide [dog] animal in his or her possession shall be liable
17 for any damages done to the premises of a public facility by such[
18 dog] animal.

19 d. (Deleted by amendment; P.L.1981, c.391.)

20 (cf. P.L.1983, c.485, s.4)

21

22 18. Section 3 of P.L.1977, c.456 (C.10:5-29.1.) is amended to read
23 as follows:

24 3. Unless it can be clearly shown that a person's [handicap,
25 blindness or deafness] disability would prevent such person from
26 performing a particular job, it is an unlawful employment practice to
27 deny to an otherwise qualified [handicapped, blind or deaf] person
28 with a disability the opportunity to obtain or maintain employment, or
29 to advance in position in his job, solely because such person [is
30 handicapped, blind or deaf] has a disability or because such person is
31 accompanied by a service or guide [dog] animal.

32 (cf: P.L.1983, c.485, s.5)

33

34 19. Section 4 of P.L.1977, c.456 (C.10:5-29.2) is amended to read
35 as follows:

36 4. A [handicapped, blind or deaf] person with a disability is entitled
37 to rent, lease or purchase, as other members of the general public, all
38 housing accommodations offered for rent, lease, or compensation in
39 this State, subject to the rights, conditions and limitations established
40 by law [and applicable alike to all persons. Nothing in this section
41 shall require any person renting, leasing or providing for compensation
42 real property, to modify such property in any way to provide a higher
43 degree of care for a handicapped, blind or deaf person than for any
44 other person]. A [handicapped, blind or deaf] person with a disability
45 who has a service or guide [dog] animal, or who obtains a service or
46 guide [dog] animal, shall be entitled to full and equal access to all

1 housing accommodations and shall not be required to pay extra
2 compensation for such service or guide [dog] animal, but shall be
3 liable for any damages done to the premises by such [dog] animal.
4 Any provision in any lease or rental agreement prohibiting
5 maintenance of a pet or pets on or in the premises shall not be
6 applicable to a service or guide [dog] animal [owned] utilized by a
7 [handicapped, blind or deaf] tenant with a disability.

8 (cf: P.L.1983, c.485, s.6)

9

10 20. Section 5 of P.L.1977, c.456 (C.10:5-29.3) is amended to read
11 as follows:

12 5. A service or guide [dog] animal trainer, while engaged in the
13 actual training process and activities of service[dogs] or guide[dogs]
14 animals, shall have the same rights and privileges with respect to
15 access to public facilities, and the same responsibilities as are
16 applicable to a [handicapped, blind or deaf] person with a disability
17 accompanied by a service or guide animal.

18 (cf: P.L.1983, c.485, s.7)

19

20 21. Section 6 of P.L.1977, c.456 (C.10:5-29.4) is amended to read
21 as follows:

22 6. A [blind] person with a disability person accompanied by a
23 service or guide [dog] animal shall have the right-of-way over vehicles
24 while crossing a highway or any intersection thereof, as provided in
25 P.L.1939, c.274 (C.39:4-37.1).

26 (cf: P.L.1977, c.456, s.6)

27

28 22. Section 7 of P.L.1977, c.456 (C.10:5-29.5) is amended to read
29 as follows:

30 7. Any person who violates the provisions of this act, or who fits
31 [a dog] an animal with a harness of the type commonly used by [
32 blind] persons with disabilities in order to represent that such [dog]
33 animal is a service or guide [dog] animal when training of the type that
34 service or guide [dogs] animals normally receive has not in fact, been
35 provided, shall be fined not less than \$100.00 and not more than
36 \$500.00.

37 (cf: P.L.1977, c.456, s.7)

38

39 23. Section 9 of P.L.1980, c.46 (C.10.10:5-29.6) is amended to
40 read as follows:

41 9. Whenever the law accords rights and privileges to or imposes
42 conditions and restrictions upon blind persons with respect to their use
43 of [dogs] animals to countervail their [handicap] disability, and known
44 and described as "seeing eye" dogs, those rights, privileges, conditions
45 and restrictions shall also apply to [handicapped or deaf persons]
46 people with disabilities with respect to their use of [dogs] guide or

1 service animals to countervail their [handicap] disability, and known
2 and described as either "service [dogs] or guide animals" or "hearing
3 ear" dog or other animals.

4 (cf: P.L.1983, c.485, s.8)

5
6 24. Section 1 of P.L.1975, c.127 (C.10:5-31) is amended to read
7 as follows:

8 1. As used in this act:

9 a. "Public works contract" means any contract to be performed for
10 or on behalf of the State or any county or municipality or other
11 political subdivision of the State, or any agency or authority created
12 by any of the foregoing, for the construction, alteration or repair of
13 any building or public work or for the acquisition of materials,
14 equipment, supplies or services with respect to which discrimination
15 in the hiring of persons for the performance of work thereunder or
16 under any subcontract thereunder by reason of race, creed, color,
17 national origin, ancestry, marital status, affectional or sexual
18 orientation, nationality, disability or sex is prohibited under
19 R.S.10:2-1.

20 b. "Equal employment opportunity" means equality in opportunity
21 for employment by any contractor, subcontractor or business firm
22 engaged in the carrying out of a public works project including its
23 development, design, acquisition, construction, management and
24 operation.

25 (cf: P.L1991, c.519, s.11)

26

27 25. Section 3 of P.L.1975, c.127 (C.10:5-33) is amended to read
28 as follows:

29 3. The State or any county or municipality or other political
30 subdivision of the State, or any agency of or authority created by any
31 of the foregoing, shall include in the bid specifications and the contract
32 provisions of any public works contract the following language:

33 "During the performance of this contract, the contractor agrees as
34 follows:

35 a. The contractor or subcontractor, where applicable, will not
36 discriminate against any employee or applicant for employment
37 because of age, race, creed, color, national origin, ancestry, marital
38 status, affectional or sexual orientation, nationality, disability or sex.
39 Except with respect to affectional or sexual orientation, the contractor
40 will take affirmative action to ensure that such applicants are recruited
41 and employed, and that employees are treated during employment,
42 without regard to their age, race, creed, color, national origin,
43 ancestry, marital status, affectional or sexual orientation, nationality,
44 disability or sex. Such action shall include, but not be limited to the
45 following: employment, upgrading, demotion, or transfer; recruitment
46 or recruitment advertising; layoff or termination; rates of pay or other

1 forms of compensation; and selection for training, including
2 apprenticeship. The contractor agrees to post in conspicuous places,
3 available to employees and applicants for employment, notices to be
4 provided by the contracting officer setting forth the provisions of this
5 nondiscrimination clause;

6 b. The contractor or subcontractor, where applicable will, in all
7 solicitations or advertisements for employees placed by or on behalf
8 of the contractor, state that all qualified applicants will receive
9 consideration for employment without regard to age, race, creed,
10 color, national origin, ancestry, marital status, affectional or sexual
11 orientation, nationality disability or sex;

12 c. The contractor or subcontractor where applicable, will send to
13 each labor union or representative of workers with which he has a
14 collective bargaining agreement or other contract or understanding, a
15 notice, to be provided by the agency contracting officer, advising the
16 labor union or workers' representative of the contractor's commitments
17 under this act and shall post copies of the notice in conspicuous places
18 available to employees and applicants for employment."

19 In soliciting bids for any public works contract the State or any
20 county or municipality or other political subdivision of the State, or
21 any agency of or authority created by any of the foregoing, shall
22 include in the advertisement and solicitation of bids the following
23 language: "Bidders are required to comply with the requirements of
24 P.L.1975, c.127."

25 (cf: P.L.1991, c.519, s.13)

26

27 26. This act shall take effect immediately.

28

29

30

STATEMENT

31

32 This bill amends the New Jersey Law Against Discrimination,
33 N.J.S.A.10:5-1 et seq. (LAD), by replacing the "handicapped"
34 terminology with terminology related to disability. These amendments
35 make the LAD consistent with the American With Disabilities Act, its
36 federal counterpart.

37 Additionally, in an attempt to facilitate a more timely and thorough
38 process of filing complaints with the Division on Civil Rights, (DCR)
39 this bill would further amend the LAD to: (1) permit an earlier transfer
40 of the matter to the Office of Administrative Law; (2) authorize the
41 Director of DCR to send cases which turn on credibility to the Office
42 of Administrative Law without a finding of probable cause; (3)
43 authorize the State to recover attorney fees in cases successfully
44 represented by the Deputy Attorney General; (4) authorize the
45 Director to implement mandatory mediation; (5) clarify the Director's
46 authority regarding reasonable accommodation for the disabled in

1 housing cases; (6) increase the civil penalty structure; and (7) clarify
2 the Director's ability to award compensatory damages.

3

4

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6

7 Revises the Law Against Discrimination.