

# SENATE, No. 3352

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 12, 2021

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

### **SYNOPSIS**

Concerns unlawful discrimination and harassment.

### **CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning unlawful discrimination and harassment,  
2 supplementing P.L.1945, c.169, and revising various parts of the  
3 statutory law.

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

7  
8 1. (New section) Mandatory workplace policies on unlawful  
9 discrimination and harassment, including sexual harassment and  
10 retaliation.

11 a. For purposes of this section, the terms “discrimination” and  
12 “harassment” refer to unlawful discrimination or harassment of an  
13 individual because of any characteristic of the individual protected  
14 by subsection a. of section 11 of P.L.1945, c.169 (C.10:5-12), and  
15 “retaliation” refers to any action taken against an individual in  
16 violation of the provisions of subsection d. of section 11 of  
17 P.L.1945, c.169 (C.10:5-12).

18 b. Within one year of the date of enactment of P.L. , c.  
19 (C. ) (pending before the Legislature as this bill), all employers  
20 shall adopt a written nondiscrimination policy that establishes  
21 policies and procedures concerning unlawful discrimination and  
22 harassment, including sexual harassment, in the workplace which is  
23 applicable to all employees in their interactions with each other and  
24 with vendors, suppliers, customers, clients, invitees, and patrons,  
25 and which shall include, at a minimum, the following:

26 (1) a statement that unlawful discrimination or harassment in the  
27 workplace will not be tolerated, and that sanctions will be enforced  
28 against individuals engaging in unlawful discrimination or  
29 harassment and against supervisory and managerial personnel who  
30 knowingly allow such behavior to continue;

31 (2) a definition of unlawful discrimination and unlawful  
32 harassment in employment;

33 (3) examples of discriminatory and harassing behaviors  
34 prohibited by the policy;

35 (4) a description of the process for filing internal complaints  
36 about discrimination or harassment and the complete contact  
37 information of the person or persons to whom complaints should be  
38 made;

39 (5) directions as to how to contact the division if a person  
40 believes their rights were violated;

41 (6) the statute of limitations periods applicable to filing a claim  
42 of unlawful discrimination and harassment under P.L.1945, c.169  
43 (C.10:5-1 et seq.);

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

Matter underlined thus is new matter.

- 1 (7) a prohibition on retaliation against those who disclose,  
2 report, participate in an investigation of, or otherwise challenge  
3 discrimination or harassment;
- 4 (8) examples of retaliatory behaviors prohibited by the policy;
- 5 (9) a description of potential consequences for violating the  
6 policy; and
- 7 (10) a statement of the employer's commitment to conducting  
8 prompt, thorough, and impartial investigations of complaints of  
9 such discrimination, harassment, or retaliation.
- 10 c. All employers shall disseminate the policy required in  
11 subsection b. of this section at least once annually to all employees,  
12 and to each employee:
- 13 (1) at the beginning of employment;
- 14 (2) who complains internally about a violation of the policy, at  
15 the time the complaint is made;
- 16 (3) who is interviewed by the employer or the employer's  
17 designee in connection with any investigation of any complaint  
18 about a violation of the policy, prior to or at the time of the  
19 interview; and
- 20 (4) whenever any updates to the policy are made.
- 21 d. All employers shall review the policy at least annually to  
22 ensure that it complies with this section and other applicable laws  
23 and regulations.
- 24 e. All employers shall make the policy available in English,  
25 Spanish and any language spoken by an employee who does not  
26 speak English as the employee's primary language and who has a  
27 limited ability or no ability to read, speak, write, or understand  
28 English.
- 29 f. In addition to the requirements in subsections b., c., d., and  
30 e. of this section, employers with 50 or more employees shall:
- 31 (1) in addition to the content requirements outlined in  
32 subsection b. of this section, customize their policy to their specific  
33 workplace and industry by, at a minimum, including:
- 34 (a) multiple channels through which an employee may report  
35 unlawful discrimination or harassment; and
- 36 (b) a general description of the process by which the employer  
37 will conduct prompt, thorough, and impartial investigations and  
38 respond to complaints regarding such discrimination or harassment.
- 39 (2) In addition to the dissemination requirements outlined in  
40 subsection c. of this section:
- 41 (a) post the policy in a prominent location on the employer's  
42 website, provided, however, that nothing in this subsection shall  
43 require an employer to create or maintain a website for the sole  
44 purpose of posting the policy thereon; and
- 45 (b) disseminate the policy to any employee upon that  
46 employee's promotion.
- 47 (3) In addition to the translation requirements outlined in  
48 subsection e. of this section, translate the nondiscrimination policy

1 required by subsection b. of this section into any language  
2 identified by an employee as their primary language, if the  
3 employee does not speak English as their primary language and has  
4 a limited ability or no ability to read, speak, write, or understand  
5 English.

6 g. Any person who employs an individual to perform domestic  
7 work in their private residence or in the private residence of a  
8 family member shall, at the time of hire and at least once annually,  
9 provide to the individual a printed copy of materials regarding  
10 unlawful discrimination and harassment made available by the  
11 division.

12 h. For purposes of this section, an employer has 50 or more  
13 employees if the employer employs 50 or more employees, whether  
14 employed in New Jersey or not, for each work day during each of  
15 20 or more calendar workweeks in the then current or immediately  
16 preceding calendar year.

17 i. Notwithstanding any other provision of P.L.1945, c.169  
18 (C.10:5-1 et seq.), nothing in this section shall be construed to  
19 permit a private person to file a complaint with the division or  
20 initiate an action in superior court alleging a violation of P.L.1945,  
21 c.169 (C.10:5-1 et seq.) because of any failure to comply with the  
22 provisions of this section. However, the Attorney General or the  
23 director may enforce violations of this section and may pursue any  
24 penalty or remedy available under P.L.1945, c.169 (C.10:5-1 et  
25 seq.) in doing so. An employer's compliance with this section shall  
26 not, in and of itself, protect the employer from liability under this  
27 act.

28

29 2. (New section) Mandatory workplace training on unlawful  
30 discrimination and harassment, including sexual harassment.

31 a. For purposes of this section, the terms "discrimination" and  
32 "harassment" refer to unlawful discrimination or harassment against  
33 an individual because of any characteristic of the individual  
34 protected by subsection a. of section 11 of P.L.1945, c.169 (C.10:5-  
35 12), and "retaliation" refers to any action taken against an  
36 individual in violation of the provisions of subsection d. of section  
37 11 of P.L.1945, c.169 (C.10:5-12).

38 b. Beginning one year from the effective date of P.L. , c.  
39 (C. ) (pending before the Legislature as this bill), all employers  
40 shall provide interactive training to all employees other than those  
41 employees covered by subsection c. of this section on the  
42 nondiscrimination policy required by section 1 of P.L. , c.  
43 (C. ) (pending before the Legislature as this bill), regarding the  
44 prevention of unlawful discrimination and harassment, including  
45 sexual harassment, in the workplace. The training shall be provided  
46 to all new employees within 90 days of initial hire, and to all  
47 employees at least once every two years. The training shall include,  
48 at minimum:

- 1 (1) A statement that unlawful discrimination or harassment in  
2 the workplace will not be tolerated, and that sanctions will be  
3 enforced against individuals engaging in discrimination or  
4 harassment and against supervisory and managerial personnel who  
5 knowingly or negligently allow the discrimination or harassment to  
6 continue;
- 7 (2) A definition of unlawful discrimination and unlawful  
8 harassment in employment;
- 9 (3) Examples of discriminatory and harassing behaviors  
10 prohibited by the nondiscrimination policy adopted by the employer  
11 pursuant to section 1 of P.L. , c. (C. ) (pending before  
12 the Legislature as this bill);
- 13 (4) A description of the process for filing internal complaints  
14 about discrimination or harassment;
- 15 (5) Directions as to how to contact the division if a person  
16 believes his rights were violated;
- 17 (6) A description of the prohibition on retaliation against those  
18 who disclose, report, participate in an investigation of, or otherwise  
19 challenge discrimination or harassment;
- 20 (7) Examples of retaliatory behaviors prohibited by the  
21 nondiscrimination policy adopted by the employer pursuant to  
22 section 1 of P.L. , c. (C. ) (pending before the  
23 Legislature as this bill); and
- 24 (8) Information concerning bystander intervention.
- 25 c. Beginning one year from the effective date of P.L. , c.  
26 (C. ) (pending before the Legislature as this bill), all employers  
27 shall provide interactive training to all supervisory employees  
28 regarding the prevention of unlawful discrimination and harassment  
29 in the workplace at least once every two years and shall provide  
30 such training to all new supervisory employees within 90 days of  
31 initial hire or promotion. The training shall include, at minimum:
- 32 (1) the topics required by paragraphs (1) through (8) of  
33 subsection b. of this section;
- 34 (2) the specific responsibilities of a supervisor regarding the  
35 prevention of discrimination and harassment;
- 36 (3) the specific responsibilities of a supervisor regarding the  
37 prohibitions against retaliation; and
- 38 (4) measures and corrective actions supervisors may take to  
39 appropriately address complaints and instances of discrimination,  
40 harassment, and retaliation.
- 41 d. All employers shall keep a record of their employees'  
42 completion of all trainings required by subsections b. and c. of this  
43 section. The records may be electronic. Employers shall maintain  
44 the records for at least four years and make the records available for  
45 division inspection upon request.
- 46 e. All employers shall review the trainings required by  
47 subsections b. and c. of this section at least annually to ensure that

1 they comply with this section and with other applicable laws and  
2 regulations.

3 f. All employers shall make the trainings required by  
4 subsections b. and c. of this section available:

5 (1) in English; and

6 (2) in any language spoken by an employee who does not speak  
7 English as their primary language and who has a limited ability or  
8 no ability to read, speak, write, or understand English.

9 g. Employers with 50 or more employees shall provide the  
10 trainings required by subsections b. and c. of this section in a live,  
11 in-person setting where participants can ask questions. The  
12 employers shall also provide interpretation at the trainings required  
13 by subsections b. and c. of this section for any employee who does  
14 not speak English as their primary language and has a limited  
15 ability or no ability to read, speak, write, or understand English.

16 h. For purposes of this section, an employer has 50 or more  
17 employees if the employer employs 50 or more employees, whether  
18 employed in New Jersey or not, for each work day during each of  
19 20 or more calendar workweeks in the then current or immediately  
20 preceding calendar year.

21 i. For purposes of this section, “interactive training” means  
22 that the training shall be participatory. However, except where  
23 explicitly required herein, “interactive training” shall not be  
24 required to be live or facilitated by an in-person instructor in order  
25 to satisfy the provisions of this section.

26 j. The training required by this section is intended to establish  
27 a minimum threshold. An employer may provide longer, more  
28 frequent, or more elaborate training regarding workplace  
29 harassment or other forms of unlawful discrimination.

30 k. Notwithstanding any other provision of P.L.1945, c.169  
31 (C.10:5-1 et seq.), nothing in this section shall be construed to  
32 permit a private person to file a complaint with the division or  
33 initiate an action in superior court alleging a violation of P.L.1945,  
34 c.169 (C.10:5-1 et seq.), because of any failure to comply with the  
35 provisions of this section. However, the Attorney General or the  
36 director may enforce violations of this section and may pursue any  
37 penalty or remedy available under P.L.1945, c.169 (C.10:5-1 et  
38 seq.), in doing so. An employer’s compliance with this section shall  
39 not, in and of itself, protect the employer from liability for unlawful  
40 discrimination or harassment under this act.

41

42 3. (New section) Mandatory reporting on unlawful employment  
43 discrimination and harassment, including sexual harassment.

44 a. For purposes of this section, the terms “discrimination” and  
45 “harassment” refer to unlawful discrimination or harassment against  
46 an individual because of any characteristic of the individual  
47 protected by subsection a. of section 11 of P.L.1945, c.169 (C.10:5-  
48 12), and “retaliation” refers to any action taken against an

1 individual in violation of the provisions of subsection d. of section  
2 11 of P.L.1945, c.169 (C.10:5-12).

3 b. Beginning one year after the date of enactment of P.L. , c.  
4 (C. ) (pending before the Legislature as this bill), employers  
5 with 50 or more employees shall be required to collect and annually  
6 report to the division the following data on complaints received  
7 regarding unlawful workplace discrimination, harassment, including  
8 sexual harassment, or retaliation, using the form created and made  
9 available on the division's website pursuant to subsection e. of this  
10 section for that purpose:

11 (1) the total number of complaints filed;

12 (2) the number of complaints filed that were found by the  
13 employer to be substantiated;

14 (3) the number of complaints filed that were found by the  
15 employer to be unsubstantiated; and

16 (4) the number of complaints filed whose resolution is still  
17 pending.

18 c. The data submitted for each of the categories in subsection  
19 b. of this section shall be broken down by how many of those  
20 complaints involved allegations of unlawful discrimination,  
21 harassment, or retaliation, as well as by the protected class or  
22 classes that the complainant alleged.

23 d. Employers shall be required to maintain any records related  
24 to the complaints reported to the division pursuant to subsections b.  
25 and c. of this section for at least four years. Employers shall make  
26 the records available for division inspection upon request.

27 e. The division shall, within six months of the date of  
28 enactment of P.L. , c. (C. ) (pending before the  
29 Legislature as this bill), create a form to be used by employers  
30 when submitting the data required to be reported under subsections  
31 b. and c. of this section. The division shall make the form available  
32 at no cost on its website.

33 f. For purposes of this section, an employer has 50 or more  
34 employees if such employer employs 50 or more employees,  
35 whether employed in New Jersey or not, for each work day during  
36 each of 20 or more calendar workweeks in the then current or  
37 immediately preceding calendar year.

38 g. Notwithstanding any other provision of P.L.1945, c.169  
39 (C.10:5-1 et seq.), nothing in this section shall be construed to  
40 permit a private person to file a complaint with the division or  
41 initiate an action in superior court alleging a violation of P.L.1945,  
42 c.169 (C.10:5-1 et seq.) because of any failure to comply with the  
43 provisions of this section. However, the Attorney General or the  
44 director may enforce violations of this section and may pursue any  
45 penalty or remedy available under P.L.1945, c. 169 (C.10:5-1 et  
46 seq.), in doing so. An employer's compliance with this section, or  
47 use of materials provided for herein, shall not, in and of itself,

1 protect the employer from liability for unlawful discrimination or  
2 harassment under this act.

3

4 4. (New section) P.L.1945, c.169 (C.10:5-1 et seq.) shall be  
5 construed to prohibit unlawful discrimination and other unlawful  
6 practices against not only an individual who is a member of a  
7 protected class, as described in P.L.1945, c.169 (C.10:5-1 et seq.),  
8 but also against an individual who is:

9 a. Perceived to be a member of a protected class;

10 b. Associated with an individual who is a member of or is  
11 perceived to be a member of a protected class;

12 c. A member of a protected class who is in transition to being a  
13 member of another protected class; or

14 d. A member of one protected class who is in transition from  
15 one state in that protected class to another state within that or  
16 another protected class.

17

18 5. (New section) Notwithstanding any other provisions of law,  
19 including the provisions of R.S. 34:15-8, a claim made by an  
20 employee or a dependent of the employee for compensation under  
21 the workers' compensation law, R.S. 34:15-1 et seq., for an injury,  
22 occupational disease, or death shall not preclude the filing by, or on  
23 behalf of, the employee or dependent of a complaint regarding an  
24 unlawful employment practice with the Division on Civil Rights or  
25 in Superior Court pursuant to P.L.1945, c.169 (C.10:5-1 et seq.)  
26 seeking relief for damages caused by the unlawful employment  
27 practice, even if the damages include damages from injury,  
28 occupational disease, or death which may be compensable under the  
29 claim made for workers' compensation.

30

31 6. Section 1 of P.L.1938, c.295 (C.10:3-1) is amended to read  
32 as follows:

33 1. In the selection of persons for employment in the service of  
34 the State, or of any county or municipality thereof, no appointing  
35 officer shall discriminate against any such applicant because such  
36 applicant has attained the age of at least 40 years, at the time of said  
37 application for employment. Any provisions of law, executive  
38 order, rule or regulation to the contrary notwithstanding, no person  
39 other than a justice of the Supreme Court or a judge of the Superior  
40 Court pursuant to Article VI, Section VI, paragraph 3 of the  
41 Constitution of the State of New Jersey, or a judge of the Tax  
42 Court, or a judge of the Office of Administrative Law or a judge of  
43 the Division of Workers' Compensation, or a member of the  
44 Division of State Police, employed in the service of the State, or of  
45 any county or municipality thereof, or a member of a police or fire  
46 department employed in the service of the State or of any county or  
47 municipality thereof, shall be required to retire upon the attainment  
48 of a particular age unless the public employer can show that [the



1 retirement age bears a manifest relationship to the employment in  
2 question or that】 the person in the service of the State, or of any  
3 county or municipality thereof, is unable to adequately perform the  
4 person's duties. A contract of tenure or similar arrangement  
5 providing for tenure shall not bar a public employer from showing  
6 that 【a retirement age bears a manifest relationship to the  
7 employment in question or that】 the person in the service of the  
8 State, or of any county or municipality thereof, is unable to  
9 adequately perform the person's duties. A person in the employ of  
10 the State, or of any county or municipality thereof, who is required  
11 to retire upon the attainment of a particular age in violation of this  
12 section shall be entitled to reinstatement with back pay and interest,  
13 and any remedy available for violations of P.L.1945, c.169 (C.10:5-  
14 1 et seq.).

15 (cf: P.L.1999, c.380, s.15)

16

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

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

21 a. “Person” includes one or more individuals, partnerships,  
22 associations, organizations, labor organizations, corporations, legal  
23 representatives, trustees, trustees in bankruptcy, receivers, and  
24 fiduciaries.

25 b. “Employment agency” includes any person undertaking to  
26 procure employees or opportunities for others to work.

27 c. “Labor organization” includes any organization which exists  
28 and is constituted for the purpose, in whole or in part, of collective  
29 bargaining, or of dealing with employers concerning grievances,  
30 terms or conditions of employment, or of other mutual aid or  
31 protection in connection with employment.

32 d. “Unlawful employment practice” and “unlawful  
33 discrimination” include only those unlawful practices and acts  
34 specified in section 11 of P.L.1945, c.169 (C.10:5-12).

35 e. “Employer” includes all persons as defined in subsection a.  
36 of this section unless otherwise specifically exempt under another  
37 section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State,  
38 any political or civil subdivision thereof, and all public officers,  
39 agencies, boards, or bodies; and, in the employment of any  
40 individual to perform domestic work, includes any person who  
41 employs the individual to perform domestic work in the person’s  
42 private residence, who employs an individual to perform domestic  
43 work in the private residence of a family member of the person, or  
44 who is 18 years of age or older and resides in a private residence in  
45 which an individual performs domestic work.

46 f. “Employee” 【does not include any individual employed in  
47 the domestic service of any person】 includes all individuals

1 employed by an employer, without regard to whether the individual,  
2 including an intern or independent contractor, performs services in  
3 exchange for a salary or wage, and regardless of whether the  
4 individual owns shares of stocks in the employer; provided,  
5 however, that nothing in this subsection shall be construed to alter  
6 the definition of employee under any other law or regulation other  
7 than for purposes of P.L.1945, c.169 (C.10:5-1 et seq.).

8 g. "Liability for service in the Armed Forces of the United  
9 States" means subject to being ordered as an individual or member  
10 of an organized unit into active service in the Armed Forces of the  
11 United States by reason of membership in the National Guard, naval  
12 militia or a reserve component of the Armed Forces of the United  
13 States, or subject to being inducted into such armed forces through  
14 a system of national selective service.

15 h. "Division" means the "Division on Civil Rights" created by  
16 P.L.1945, c.169 (C.10:5-1 et seq.).

17 i. "Attorney General" means the Attorney General of the State  
18 of New Jersey or the Attorney General's representative or designee.

19 j. "Commission" means the Commission on Civil Rights  
20 created by P.L.1945, c.169 (C.10:5-1 et seq.).

21 k. "Director" means the Director of the Division on Civil  
22 Rights.

23 l. "A place of public accommodation" shall include, but not be  
24 limited to: any tavern, roadhouse, hotel, motel, trailer camp,  
25 summer camp, day camp, or resort camp, whether for entertainment  
26 of transient guests or accommodation of those seeking health,  
27 recreation, or rest; any producer, manufacturer, wholesaler,  
28 distributor, retail shop, store, establishment, or concession dealing  
29 with goods or services of any kind; any restaurant, eating house, or  
30 place where food is sold for consumption on the premises; any  
31 place maintained for the sale of ice cream, ice and fruit preparations  
32 or their derivatives, soda water or confections, or where any  
33 beverages of any kind are retailed for consumption on the premises;  
34 any garage, any public conveyance operated on land or water or in  
35 the air or any stations and terminals thereof; any bathhouse,  
36 boardwalk, or seashore accommodation; any auditorium, meeting  
37 place, or hall; any theatre, motion-picture house, music hall, roof  
38 garden, skating rink, swimming pool, amusement and recreation  
39 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
40 pool parlor, or other place of amusement; any comfort station; any  
41 dispensary, clinic, or hospital; any public library; and any  
42 kindergarten, primary and secondary school, trade or business  
43 school, high school, academy, college and university, or any  
44 educational institution under the supervision of the State Board of  
45 Education or the Commissioner of Education of the State of New  
46 Jersey. Nothing herein contained shall be construed to include or to  
47 apply to any institution, bona fide club, or place of accommodation,  
48 which is in its nature distinctly private; nor shall anything herein

1 contained apply to any educational facility operated or maintained  
2 by a bona fide religious or sectarian institution, and the right of a  
3 natural parent or one in loco parentis to direct the education and  
4 upbringing of a child under his is hereby affirmed; nor shall  
5 anything herein contained be construed to bar any private secondary  
6 or post-secondary school from using in good faith criteria other than  
7 race, creed, color, national origin, ancestry, gender identity or  
8 expression or affectional or sexual orientation in the admission of  
9 students.

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

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

38 o. "Real estate broker" includes a person, firm, or corporation  
39 who, for a fee, commission, or other valuable consideration, or by  
40 reason of promise or reasonable expectation thereof, lists for sale,  
41 sells, exchanges, buys or rents, or offers or attempts to negotiate a  
42 sale, exchange, purchase, or rental of real estate or an interest  
43 therein, or collects or offers or attempts to collect rent for the use of  
44 real estate, or solicits for prospective purchasers or assists or directs  
45 in the procuring of prospects or the negotiation or closing of any  
46 transaction which does or is contemplated to result in the sale,  
47 exchange, leasing, renting, or auctioning of any real estate, or  
48 negotiates, or offers or attempts or agrees to negotiate a loan

1   secured or to be secured by mortgage or other encumbrance upon or  
2   transfer of any real estate for others; or any person who, for  
3   pecuniary gain or expectation of pecuniary gain conducts a public  
4   or private competitive sale of lands or any interest in lands. In the  
5   sale of lots, the term “real estate broker” shall also include any  
6   person, partnership, association, or corporation employed by or on  
7   behalf of the owner or owners of lots or other parcels of real estate,  
8   at a stated salary, or upon a commission, or upon a salary and  
9   commission or otherwise, to sell such real estate, or any parts  
10   thereof, in lots or other parcels, and who shall sell or exchange, or  
11   offer or attempt or agree to negotiate the sale or exchange, of any  
12   such lot or parcel of real estate.

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

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

43    r. “Blind person” or “person who is blind” means any  
44   individual whose central visual acuity does not exceed 20/200 in the  
45   better eye with correcting lens or whose visual acuity is better than  
46   20/200 if accompanied by a limit to the field of vision in the better  
47   eye to such a degree that its widest diameter subtends an angle of  
48   no greater than 20 degrees.

- 1       s. “Guide dog” means a dog used to assist persons who are  
2 deaf, or which is fitted with a special harness so as to be suitable as  
3 an aid to the mobility of a person who is blind, and is used by a  
4 person who is blind and has satisfactorily completed a specific  
5 course of training in the use of such a dog, and has been trained by  
6 an organization generally recognized by agencies involved in the  
7 rehabilitation of persons with disabilities, including, but not limited  
8 to, those persons who are blind or deaf, as reputable and competent  
9 to provide dogs with training of this type.
- 10      t. “Guide or service dog trainer” means any person who is  
11 employed by an organization generally recognized by agencies  
12 involved in the rehabilitation of persons with disabilities, including,  
13 but not limited to, those persons who are blind, have visual  
14 impairments, or are deaf or have hearing impairments, as reputable  
15 and competent to provide dogs with training, as defined in this  
16 section, and who is actually involved in the training process.
- 17      u. “Housing accommodation” means any publicly assisted  
18 housing accommodation or any real property, or portion thereof,  
19 which is used or occupied, or is intended, arranged, or designed to  
20 be used or occupied, as the home, residence, or sleeping place of  
21 one or more persons, but shall not include any single family  
22 residence the occupants of which rent, lease, or furnish for  
23 compensation not more than one room therein.
- 24      v. “Public facility” means any place of public accommodation  
25 and any street, highway, sidewalk, walkway, public building, and  
26 any other place or structure to which the general public is regularly,  
27 normally, or customarily permitted or invited, and includes access  
28 to public services.
- 29      w. “Deaf person” or “person who is deaf” means any person  
30 whose hearing is so severely impaired that the person is unable to  
31 hear and understand conversational speech through the unaided ear  
32 alone, and who must depend primarily on an assistive listening  
33 device or visual communication such as writing, lip reading, sign  
34 language, and gestures.
- 35      x. “Atypical hereditary cellular or blood trait” means sickle cell  
36 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
37 fibrosis trait.
- 38      y. “Sickle cell trait” means the condition wherein the major  
39 natural hemoglobin components present in the blood of the  
40 individual are hemoglobin A (normal) and hemoglobin S (sickle  
41 hemoglobin) as defined by standard chemical and physical analytic  
42 techniques, including electrophoresis; and the proportion of  
43 hemoglobin A is greater than the proportion of hemoglobin S or one  
44 natural parent of the individual is shown to have only normal  
45 hemoglobin components (hemoglobin A, hemoglobin A2,  
46 hemoglobin F) in the normal proportions by standard chemical and  
47 physical analytic tests.

- 1       z. “Hemoglobin C trait” means the condition wherein the major  
2 natural hemoglobin components present in the blood of the  
3 individual are hemoglobin A (normal) and hemoglobin C as defined  
4 by standard chemical and physical analytic techniques, including  
5 electrophoresis; and the proportion of hemoglobin A is greater than  
6 the proportion of hemoglobin C or one natural parent of the  
7 individual is shown to have only normal hemoglobin components  
8 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal  
9 proportions by standard chemical and physical analytic tests.
- 10       aa. “Thalassemia trait” means the presence of the thalassemia  
11 gene which in combination with another similar gene results in the  
12 chronic hereditary disease Cooley’s anemia.
- 13       bb. “Tay-Sachs trait” means the presence of the Tay-Sachs gene  
14 which in combination with another similar gene results in the  
15 chronic hereditary disease Tay-Sachs.
- 16       cc. “Cystic fibrosis trait” means the presence of the cystic  
17 fibrosis gene which in combination with another similar gene  
18 results in the chronic hereditary disease cystic fibrosis.
- 19       dd. “Service dog” means any dog individually trained to the  
20 requirements of a person with a disability including, but not limited  
21 to minimal protection work, rescue work, pulling a wheelchair or  
22 retrieving dropped items. This term shall include a “seizure dog”  
23 trained to alert or otherwise assist persons with epilepsy or other  
24 seizure disorders.
- 25       ee. “Qualified Medicaid applicant” means an individual who is a  
26 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 27       ff. “AIDS” means acquired immune deficiency syndrome as  
28 defined by the Centers for Disease Control and Prevention of the  
29 United States Public Health Service.
- 30       gg. “HIV infection” means infection with the human  
31 immunodeficiency virus or any other related virus identified as a  
32 probable causative agent of AIDS.
- 33       hh. “Affectional or sexual orientation” means male or female  
34 heterosexuality, homosexuality, or bisexuality by inclination,  
35 practice, identity, or expression, having a history thereof or being  
36 perceived, presumed, or identified by others as having such an  
37 orientation.
- 38       ii. “Heterosexuality” means affectional, emotional, or physical  
39 attraction or behavior which is primarily directed towards persons  
40 of the other gender.
- 41       jj. “Homosexuality” means affectional, emotional, or physical  
42 attraction or behavior which is primarily directed towards persons  
43 of the same gender.
- 44       kk. “Bisexuality” means affectional, emotional, or physical  
45 attraction or behavior which is directed towards persons of either  
46 gender.
- 47       ll. “Familial status” means being the natural parent of a child,  
48 the adoptive parent of a child, the resource family parent of a child,

1 having a “parent and child relationship” with a child as defined by  
2 State law, or having sole or joint legal or physical custody, care,  
3 guardianship, or visitation with a child, or any person who is  
4 pregnant or is in the process of securing legal custody of any  
5 individual who has not attained the age of 18 years.

6 mm. “Housing for older persons” means housing:

7 (1) provided under any State program that the Attorney General  
8 determines is specifically designed and operated to assist persons  
9 who are elderly (as defined in the State program); or provided under  
10 any federal program that the United States Department of Housing  
11 and Urban Development determines is specifically designed and  
12 operated to assist persons who are elderly (as defined in the federal  
13 program); or

14 (2) intended for, and solely occupied by, persons 62 years of age  
15 or older; or

16 (3) intended and operated for occupancy by at least one person  
17 55 years of age or older per unit. In determining whether housing  
18 qualifies as housing for older persons under this paragraph, the  
19 Attorney General shall adopt regulations which require at least the  
20 following factors:

21 (a) the existence of significant facilities and services  
22 specifically designed to meet the physical or social needs of older  
23 persons, or if the provision of such facilities and services is not  
24 practicable, that such housing is necessary to provide important  
25 housing opportunities for older persons; and

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

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

31 Housing shall not fail to meet the requirements for housing for  
32 older persons by reason of: persons residing in such housing as of  
33 September 13, 1988 not meeting the age requirements of this  
34 subsection, provided that new occupants of such housing meet the  
35 age requirements of this subsection; or unoccupied units, provided  
36 that such units are reserved for occupancy by persons who meet the  
37 age requirements of this subsection.

38 nn. “Genetic characteristic” means any inherited gene or  
39 chromosome, or alteration thereof, that is scientifically or medically  
40 believed to predispose an individual to a disease, disorder, or  
41 syndrome, or to be associated with a statistically significant  
42 increased risk of development of a disease, disorder, or syndrome.

43 oo. “Genetic information” means the information about genes,  
44 gene products, or inherited characteristics that may derive from an  
45 individual or family member.

46 pp. “Genetic test” means a test for determining the presence or  
47 absence of an inherited genetic characteristic in an individual,  
48 including tests of nucleic acids such as DNA, RNA, and

1 mitochondrial DNA, chromosomes, or proteins in order to identify a  
2 predisposing genetic characteristic.

3 qq. “Domestic partnership” means a domestic partnership  
4 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

5 rr. “Gender identity or expression” means having or being  
6 perceived as having a gender related identity or expression whether  
7 or not stereotypically associated with a person’s assigned sex.

8 ss. “Civil Union” means a legally recognized union of two  
9 eligible individuals established pursuant to R.S.37:1-1 et seq. and  
10 P.L.2006, c.103 (C.37:1-28 et al.).

11 tt. “Premium wages” means additional remuneration for night,  
12 weekend, or holiday work, or for standby or irregular duty.

13 uu. “Premium benefit” means an employment benefit, such as  
14 seniority, group life insurance, health insurance, disability  
15 insurance, sick leave, annual leave, or an educational or pension  
16 benefit that is greater than the employment benefit due the  
17 employee for an equivalent period of work performed during the  
18 regular work schedule of the employee.

19 vv. “Race” is inclusive of traits historically associated with race,  
20 including, but not limited to, hair texture, hair type, and protective  
21 hairstyles.

22 ww. “Protective hair styles” includes, but is not limited to, such  
23 hairstyles as braids, locks, and twists.

24 xx. “Family member” means a child, parent, parent-in-law,  
25 sibling, grandparent, grandchild, spouse, domestic partner, or one  
26 partner in a civil union couple, or any other individual related by  
27 blood to the person, and any other individual that the person shows  
28 to have a close association with the person which is the equivalent  
29 of a family relationship.

30 yy. “Domestic work” means services related to the care of  
31 persons in private residences or maintenance of private residences  
32 or their premises, including, but not limited to, services performed  
33 by a nanny, au pair, babysitter, house cleaner, housekeeper, maid,  
34 caretaker, home care worker, cook, chef, butler, gardener, or  
35 household manager; except that “domestic work” shall not include:

36 (1) services provided by a parent, grandparent, spouse, sibling,  
37 child, or other immediate family member of the employer; or

38 (2) services limited to casual and occasional house- or pet-  
39 sitting duties performed when members of the household are not on  
40 the premises.

41 zz. “Intern” means an individual who performs services for an  
42 employer on a temporary basis whose work:

43 (1) provides training or supplements training given in an  
44 educational environment such that the employability of the  
45 individual performing the work may be enhanced;

46 (2) provides experience for the benefit of the individual  
47 performing the work; and

48 (3) is performed under the supervision of existing staff.



1     The term “intern” shall include individuals without regard to  
2     whether the employer pays them a salary or wage.

3     (cf: P.L.2019, c.436, s.2)

4  
5     8. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to  
6     read:

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

9     a. For an employer, because of the race, creed, color, national  
10    origin, ancestry, age, marital status, familial status, civil union  
11    status, domestic partnership status, affectional or sexual orientation,  
12    genetic information, pregnancy or breastfeeding, sex, gender  
13    identity or expression, disability or perceived disability, or atypical  
14    hereditary cellular or blood trait of any individual, or because of the  
15    liability for service in the Armed Forces of the United States or the  
16    nationality of any individual, or because of the refusal to submit to  
17    a genetic test or make available the results of a genetic test to an  
18    employer, to refuse to hire or employ or to bar or to discharge or  
19    require to retire, unless justified by lawful considerations other than  
20    age, from employment such individual or to discriminate against  
21    such individual in compensation or in terms, conditions or  
22    privileges of employment or to subject any individual to sexual  
23    harassment or other unlawful harassment; provided, however, it  
24    shall not be an unlawful employment practice to refuse to accept for  
25    employment an applicant who has received a notice of induction or  
26    orders to report for active duty in the armed forces; provided further  
27    that nothing herein contained shall be construed to bar an employer  
28    from refusing to accept for employment any person on the basis of  
29    sex in those certain circumstances where sex is a bona fide  
30    occupational qualification, reasonably necessary to the normal  
31    operation of the particular business or enterprise; **【**provided further  
32    that nothing herein contained shall be construed to bar an employer  
33    from refusing to accept for employment or to promote any person  
34    over 70 years of age**】**; provided further that it shall not be an  
35    unlawful employment practice for a club exclusively social or  
36    fraternal to use club membership as a uniform qualification for  
37    employment, or for a religious association or organization to utilize  
38    religious affiliation as a uniform qualification in the employment of  
39    clergy, religious teachers or other employees engaged in the  
40    religious activities of the association or organization, or in  
41    following the tenets of its religion in establishing and utilizing  
42    criteria for employment of an employee; **【**provided further, that it  
43    shall not be an unlawful employment practice to require the  
44    retirement of any employee who, for the two-year period  
45    immediately before retirement, is employed in a bona fide executive  
46    or a high policy-making position, if that employee is entitled to an  
47    immediate non-forfeitable annual retirement benefit from a pension,  
48    profit sharing, savings or deferred retirement plan, or any

1 combination of those plans, of the employer of that employee which  
2 equals in the aggregate at least \$27,000.00;】 and provided further  
3 that an employer may restrict employment to citizens of the United  
4 States where such restriction is required by federal law or is  
5 otherwise necessary to protect the national interest; and provided  
6 further that no provision of this section shall apply to decisions  
7 regarding the hiring of individual for the performance of domestic  
8 work.

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

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

19 For the purposes of this subsection, prior complaints of  
20 harassment or unlawful discriminatory practices at the same  
21 employer or relevant organization are discoverable and relevant  
22 regardless of whether the individual complaining of harassment,  
23 discrimination or retaliation witnessed or was aware of the prior  
24 complaints.

25 For purposes of this subsection, sexual harassment or other  
26 unlawful harassment shall be an unlawful discriminatory practice  
27 when it subjects an individual to inferior terms, conditions or  
28 privileges of employment because of the individual's membership  
29 in any category protected by this subsection. The complainant need  
30 not show that the harassment was severe or pervasive. The fact that  
31 the individual did not make a complaint about the harassment to the  
32 individual's employer or other relevant organization shall not be  
33 determinative of whether the employer or organization is liable.  
34 Nothing in this section shall require an employee to demonstrate the  
35 existence of an individual to whom the employee's treatment is to  
36 be compared. It shall be an affirmative defense to liability under  
37 this subsection that the harassment does not rise above the level of  
38 what a reasonable victim of discrimination of the same protected  
39 category would consider petty slights or trivial inconveniences.

40 For purposes of claims regarding sexual or other unlawful  
41 harassment brought by an employee who performs domestic work,  
42 it shall also be an unlawful employment practice for an employer to  
43 allow any family member or member of the employer's household,  
44 regardless of age, to engage in sexual harassment or other unlawful  
45 harassment based on any other category protected by this  
46 subsection, or for an employer to keep or request to keep permanent  
47 or continuing possession of the employee's passport or other  
48 identifying documents.

1     For the purposes of a claim brought under this subsection  
2     alleging that an employer is liable for an unlawful employment  
3     practice because an employee was subjected to sexual harassment  
4     or other unlawful harassment based on any other category protected  
5     by this subsection, it shall not be necessary to demonstrate loss of  
6     tangible job benefits to establish a violation of this subsection, nor  
7     shall it be necessary for the complainant to prove that the  
8     complainant's tangible productivity declined because of the  
9     harassing conduct.

10     For the purposes of this subsection, an unlawful employment  
11     practice occurs, with respect to discrimination in compensation or  
12     in the financial terms or conditions of employment, each occasion  
13     that an individual is affected by application of a discriminatory  
14     compensation decision or other practice, including, but not limited  
15     to, each occasion that wages, benefits, or other compensation are  
16     paid, resulting in whole or in part from the decision or other  
17     practice.

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

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

35     b. For a labor organization, because of the race, creed, color,  
36     national origin, ancestry, age, marital status, civil union status,  
37     domestic partnership status, affectional or sexual orientation,  
38     gender identity or expression, disability, pregnancy or  
39     breastfeeding, or sex of any individual, or because of the liability  
40     for service in the Armed Forces of the United States or nationality  
41     of any individual, to exclude or to expel from its membership such  
42     individual or to discriminate in any way against any of its members,  
43     against any applicant for, or individual included in, any apprentice  
44     or other training program or against any employer or any individual  
45     employed by an employer; provided, however, that nothing herein  
46     contained shall be construed to bar a labor organization from  
47     excluding from its apprentice or other training programs any person  
48     on the basis of sex in those certain circumstances where sex is a

1 bona fide occupational qualification reasonably necessary to the  
2 normal operation of the particular apprentice or other training  
3 program.

4 c. For any employer or employment agency to print or circulate  
5 or cause to be printed or circulated any statement, advertisement or  
6 publication, or to use any form of application for employment, or to  
7 make an inquiry in connection with prospective employment, which  
8 expresses, directly or indirectly, any limitation, specification or  
9 discrimination as to race, creed, color, national origin, ancestry,  
10 age, marital status, civil union status, domestic partnership status,  
11 affectional or sexual orientation, gender identity or expression,  
12 disability, nationality, pregnancy or breastfeeding, or sex or liability  
13 of any applicant for employment for service in the Armed Forces of  
14 the United States, or any intent to make any such limitation,  
15 specification or discrimination, unless based upon a bona fide  
16 occupational qualification.

17 d. For any person to take reprisals against any person because  
18 that person has opposed any practices or acts forbidden under this  
19 act or because that person has sought legal advice regarding rights  
20 under this act, shared relevant information with legal counsel,  
21 shared information with a governmental entity, or filed a complaint,  
22 testified or assisted in any proceeding under this act or to coerce,  
23 intimidate, threaten or interfere with any person in the exercise or  
24 enjoyment of, or on account of that person having aided or  
25 encouraged any other person in the exercise or enjoyment of, any  
26 right granted or protected by this act. Nothing in this subsection  
27 shall prohibit an employee from applying this subsection to  
28 retaliatory actions on the part of the employer, regardless of the  
29 length of time between the protected action of the employee and the  
30 retaliation, provided the retaliation is directly connected to the  
31 protected action of the employee.

32 e. For any person, whether an employer or an employee or not,  
33 including a co-employee, supervisor, customer, vendor, landlord,  
34 subordinate, or any other category of person, to engage in,  
35 participate in, aid, abet, incite, compel or coerce the doing of any of  
36 the acts forbidden under this act, or to attempt to do so, or to subject  
37 an employee to sexual harassment or other unlawful harassment,  
38 discrimination, or retaliation.

39 f. (1) For any owner, lessee, proprietor, manager,  
40 superintendent, agent, or employee of any place of public  
41 accommodation directly or indirectly to refuse, withhold from or  
42 deny to any person any of the accommodations, advantages,  
43 facilities or privileges thereof, or to discriminate against any person  
44 in the furnishing thereof, or to subject any individual to sexual  
45 harassment or other unlawful harassment, or directly or indirectly to  
46 publish, circulate, issue, display, post or mail any written or printed  
47 communication, notice, or advertisement to the effect that any of  
48 the accommodations, advantages, facilities, or privileges of any

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

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

47 In addition to the penalties otherwise provided for a violation of  
48 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)

1 of subsection f. of this section is the holder of an alcoholic beverage  
2 license issued under the provisions of R.S.33:1-12 for that private  
3 club or association, the matter shall be referred to the Director of  
4 the Division of Alcoholic Beverage Control who shall impose an  
5 appropriate penalty in accordance with the procedures set forth in  
6 R.S.33:1-31.

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

12 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
13 to deny to or withhold from any person or group of persons any real  
14 property or part or portion thereof because of race, creed, color,  
15 national origin, ancestry, marital status, civil union status, domestic  
16 partnership status, pregnancy or breastfeeding, sex, gender identity  
17 or expression, affectional or sexual orientation, familial status,  
18 disability, liability for service in the Armed Forces of the United  
19 States, nationality, or source of lawful income used for rental or  
20 mortgage payments;

21 (2) To discriminate against any person or group of persons  
22 because of race, creed, color, national origin, ancestry, marital  
23 status, civil union status, domestic partnership status, pregnancy or  
24 breastfeeding, sex, gender identity or expression, affectional or  
25 sexual orientation, familial status, disability, liability for service in  
26 the Armed Forces of the United States, nationality or source of  
27 lawful income used for rental or mortgage payments in the terms,  
28 conditions or privileges of the sale, rental or lease of any real  
29 property or part or portion thereof or in the furnishing of facilities  
30 or services in connection therewith;

31 (3) To print, publish, circulate, issue, display, post or mail, or  
32 cause to be printed, published, circulated, issued, displayed, posted  
33 or mailed any statement, advertisement, publication or sign, or to  
34 use any form of application for the purchase, rental, lease,  
35 assignment or sublease of any real property or part or portion  
36 thereof, or to make any record or inquiry in connection with the  
37 prospective purchase, rental, lease, assignment, or sublease of any  
38 real property, or part or portion thereof which expresses, directly or  
39 indirectly, any limitation, specification or discrimination as to race,  
40 creed, color, national origin, ancestry, marital status, civil union  
41 status, domestic partnership status, pregnancy or breastfeeding, sex,  
42 gender identity, or expression, affectional or sexual orientation,  
43 familial status, disability, liability for service in the Armed Forces  
44 of the United States, nationality, or source of lawful income used  
45 for rental or mortgage payments, or any intent to make any such  
46 limitation, specification or discrimination, and the production of  
47 any such statement, advertisement, publicity, sign, form of  
48 application, record, or inquiry purporting to be made by any such

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

11 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
12 to deny to or withhold from any person or group of persons any real  
13 property or part or portion thereof because of the source of any  
14 lawful income received by the person or the source of any lawful  
15 rent payment to be paid for the real property; **[or]**

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

23 (6) To subject any individual to sexual harassment or other  
24 unlawful harassment.

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

27 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
28 sale, rental, lease, assignment, or sublease any real property or part  
29 or portion thereof to any person or group of persons or to refuse to  
30 negotiate for the sale, rental, lease, assignment, or sublease of any  
31 real property or part or portion thereof to any person or group of  
32 persons because of race, creed, color, national origin, ancestry,  
33 marital status, civil union status, domestic partnership status,  
34 familial status, pregnancy or breastfeeding, sex, gender identity or  
35 expression, affectional or sexual orientation, liability for service in  
36 the Armed Forces of the United States, disability, nationality, or  
37 source of lawful income used for rental or mortgage payments, or to  
38 represent that any real property or portion thereof is not available  
39 for inspection, sale, rental, lease, assignment, or sublease when in  
40 fact it is so available, or otherwise to deny or withhold any real  
41 property or any part or portion of facilities thereof to or from any  
42 person or group of persons because of race, creed, color, national  
43 origin, ancestry, marital status, civil union status, domestic  
44 partnership status, familial status, pregnancy or breastfeeding, sex,  
45 gender identity or expression, affectional or sexual orientation,  
46 disability, liability for service in the Armed Forces of the United  
47 States, or nationality;

1       (2) To discriminate against any person because of race, creed,  
2 color, national origin, ancestry, marital status, civil union status,  
3 domestic partnership status, familial status, pregnancy or  
4 breastfeeding, sex, gender identity or expression, affectional or  
5 sexual orientation, disability, liability for service in the Armed  
6 Forces of the United States, nationality, or source of lawful income  
7 used for rental or mortgage payments in the terms, conditions or  
8 privileges of the sale, rental, lease, assignment or sublease of any  
9 real property or part or portion thereof or in the furnishing of  
10 facilities or services in connection therewith;

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

39       (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
40 to deny to or withhold from any person or group of persons any real  
41 property or part or portion thereof because of the source of any  
42 lawful income received by the person or the source of any lawful  
43 rent payment to be paid for the real property; **【or】**

44       (5) To refuse to rent or lease any real property to another person  
45 because that person's family includes children under 18 years of  
46 age, or to make an agreement, rental or lease of any real property  
47 which provides that the agreement, rental or lease shall be rendered  
48 null and void upon the birth of a child. This paragraph shall not



1 apply to housing for older persons as defined in subsection mm. of  
2 section 5 of P.L.1945, c.169 (C.10:5-5); or

3 (6) To subject any individual to sexual harassment or other  
4 unlawful harassment.

5 i. For any person, bank, banking organization, mortgage  
6 company, insurance company or other financial institution, lender  
7 or credit institution involved in the making or purchasing of any  
8 loan or extension of credit, for whatever purpose, whether secured  
9 by residential real estate or not, including but not limited to  
10 financial assistance for the purchase, acquisition, construction,  
11 rehabilitation, repair or maintenance of any real property or part or  
12 portion thereof or any agent or employee thereof:

13 (1) To discriminate against any person or group of persons  
14 because of race, creed, color, national origin, ancestry, marital  
15 status, civil union status, domestic partnership status, pregnancy or  
16 breastfeeding, sex, gender identity or expression, affectional or  
17 sexual orientation, disability, liability for service in the Armed  
18 Forces of the United States, familial status or nationality, in the  
19 granting, withholding, extending, modifying, renewing, or  
20 purchasing, or in the fixing of the rates, terms, conditions or  
21 provisions of any such loan, extension of credit or financial  
22 assistance or purchase thereof or in the extension of services in  
23 connection therewith;

24 (2) To use any form of application for such loan, extension of  
25 credit or financial assistance or to make record or inquiry in  
26 connection with applications for any such loan, extension of credit  
27 or financial assistance which expresses, directly or indirectly, any  
28 limitation, specification or discrimination as to race, creed, color,  
29 national origin, ancestry, marital status, civil union status, domestic  
30 partnership status, pregnancy or breastfeeding, sex, gender identity  
31 or expression, affectional or sexual orientation, disability, liability  
32 for service in the Armed Forces of the United States, familial status  
33 or nationality or any intent to make any such limitation,  
34 specification or discrimination; unless otherwise required by law or  
35 regulation to retain or use such information;

36 (3) (Deleted by amendment, P.L.2003, c.180).

37 (4) To discriminate against any person or group of persons  
38 because of the source of any lawful income received by the person  
39 or the source of any lawful rent payment to be paid for the real  
40 property; or

41 (5) To discriminate against any person or group of persons  
42 because that person's family includes children under 18 years of  
43 age, or to make an agreement or mortgage which provides that the  
44 agreement or mortgage shall be rendered null and void upon the  
45 birth of a child. This paragraph shall not apply to housing for older  
46 persons as defined in subsection mm. of section 5 of P.L.1945,  
47 c.169 (C.10:5-5).

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

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

24       l. For any person to refuse to buy from, sell to, lease from or  
25 to, license, contract with, or trade with, provide goods, services or  
26 information to, or otherwise do business with any other person on  
27 the basis of the race, creed, color, national origin, ancestry, age,  
28 pregnancy or breastfeeding, sex, gender identity or expression,  
29 affectional or sexual orientation, marital status, civil union status,  
30 domestic partnership status, liability for service in the Armed  
31 Forces of the United States, disability, nationality, or source of  
32 lawful income used for rental or mortgage payments of such other  
33 person or of such other person's family members, partners,  
34 members, stockholders, directors, officers, managers,  
35 superintendents, agents, employees, business associates, suppliers,  
36 or customers. This subsection shall not prohibit refusals or other  
37 actions (1) pertaining to employee-employer collective bargaining,  
38 labor disputes, or unfair labor practices, or (2) made or taken in  
39 connection with a protest of unlawful discrimination or unlawful  
40 employment practices.

41       m. For any person to:

42       (1) Grant or accept any letter of credit or other document which  
43 evidences the transfer of funds or credit, or enter into any contract  
44 for the exchange of goods or services, where the letter of credit,  
45 contract, or other document contains any provisions requiring any  
46 person to discriminate against or to certify that he, she or it has not  
47 dealt with any other person on the basis of the race, creed, color,  
48 national origin, ancestry, age, pregnancy or breastfeeding, sex,

1 gender identity or expression, affectional or sexual orientation,  
2 marital status, civil union status, domestic partnership status,  
3 disability, liability for service in the Armed Forces of the United  
4 States, or nationality of such other person or of such other person's  
5 family members, partners, members, stockholders, directors,  
6 officers, managers, superintendents, agents, employees, business  
7 associates, suppliers, or customers.

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

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

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

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

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

39 o. For any multiple listing service, real estate brokers'  
40 organization or other service, organization or facility related to the  
41 business of selling or renting dwellings to deny any person access  
42 to or membership or participation in such organization, or to  
43 discriminate against such person in the terms or conditions of such  
44 access, membership, or participation, on account of race, creed,  
45 color, national origin, ancestry, age, marital status, civil union  
46 status, domestic partnership status, familial status, pregnancy or  
47 breastfeeding, sex, gender identity or expression, affectional or

1 sexual orientation, disability, liability for service in the Armed  
2 Forces of the United States or nationality.

3 p. Nothing in the provisions of this section shall affect the  
4 ability of an employer to require employees to adhere to reasonable  
5 workplace appearance, grooming and dress standards which do not  
6 impose requirements on individuals who are members of a protected  
7 class not imposed on individuals not members of the protected class  
8 or otherwise have the effect of discriminating against members of a  
9 protected class, and are not precluded by other provisions of State  
10 or federal law, **【except】** provided further that an employer shall  
11 allow an employee to appear, groom and dress consistent with the  
12 employee's gender identity or expression.

13 q. (1) For any employer to impose upon a person as a condition  
14 of obtaining or retaining employment, including opportunities for  
15 promotion, advancement or transfers, any terms or conditions that  
16 would require a person to violate or forego a sincerely held  
17 religious practice or religious observance, including but not limited  
18 to the observance of any particular day or days or any portion  
19 thereof as a Sabbath or other holy day in accordance with the  
20 requirements of the religion or religious belief, unless, after  
21 engaging in a bona fide effort, the employer demonstrates that it is  
22 unable to reasonably accommodate the employee's religious  
23 observance or practice without undue hardship on the conduct of the  
24 employer's business. Notwithstanding any other provision of law to  
25 the contrary, an employee shall not be entitled to premium wages or  
26 premium benefits for work performed during hours to which those  
27 premium wages or premium benefits would ordinarily be  
28 applicable, if the employee is working during those hours only as an  
29 accommodation to **【his】** the employer's religious requirements.  
30 Nothing in this subsection q. shall be construed as reducing:

31 (a) The number of the hours worked by the employee which are  
32 counted towards the accruing of seniority, pension or other benefits;  
33 or

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

36 (2) For an employer to refuse to permit an employee to utilize  
37 leave, as provided for in this subsection q., which is solely used to  
38 accommodate the employee's sincerely held religious observance or  
39 practice. Except where it would cause an employer to incur an  
40 undue hardship, no person shall be required to remain at **【his】** the  
41 person's place of employment during any day or days or portion  
42 thereof that, as a requirement of **【his】** the person's religion, **【his】**  
43 the person observes as **【his】** the person's Sabbath or other holy day,  
44 including a reasonable time prior and subsequent thereto for travel  
45 between **【his】** the person's place of employment and **【his】** the  
46 person's home; provided that any such absence from work shall,  
47 wherever practicable in the reasonable judgment of the employer,

1 be made up by an equivalent amount of time and work at some  
2 other mutually convenient time, or shall be charged against any  
3 leave with pay ordinarily granted, other than sick leave, and any  
4 such absence not so made up or charged, may be treated by the  
5 employer of that person as leave taken without pay.

6 (3) (a) For purposes of this subsection q., "undue hardship"  
7 means an accommodation requiring unreasonable expense or  
8 difficulty, unreasonable interference with the safe or efficient  
9 operation of the workplace or a violation of a bona fide seniority  
10 system or a violation of any provision of a bona fide collective  
11 bargaining agreement.

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

14 (i) The identifiable cost of the accommodation, including the  
15 costs of loss of productivity and of retaining or hiring employees or  
16 transferring employees from one facility to another, in relation to  
17 the size and operating cost of the employer.

18 (ii) The number of individuals who will need the particular  
19 accommodation for a sincerely held religious observance or  
20 practice.

21 (iii) For an employer with multiple facilities, the degree to  
22 which the geographic separateness or administrative or fiscal  
23 relationship of the facilities will make the accommodation more  
24 difficult or expensive.

25 (c) An accommodation shall be considered to constitute an  
26 undue hardship if it will result in the inability of an employee to  
27 perform the essential functions of the position in which **[he or she]**  
28 the employee is employed.

29 (d) (i) The provisions of this subsection q. shall be applicable  
30 only to reasonable accommodations of religious observances and  
31 shall not supersede any definition of undue hardship or standards  
32 for reasonable accommodation of the disabilities of employees.

33 (ii) This subsection q. shall not apply where the uniform  
34 application of terms and conditions of attendance to employees is  
35 essential to prevent undue hardship to the employer. The burden of  
36 proof regarding the applicability of this subparagraph (d) shall be  
37 upon the employer.

38 r. For any employer to take reprisals against any employee for  
39 requesting from, discussing with, or disclosing to, any other  
40 employee or former employee of the employer, a lawyer from  
41 whom the employee seeks legal advice, or any government agency  
42 information regarding the job title, occupational category, and rate  
43 of compensation, including benefits, of the employee or any other  
44 employee or former employee of the employer, or the gender, race,  
45 ethnicity, military status, or national origin of the employee or any  
46 other employee or former employee of the employer, regardless of  
47 whether the request was responded to, or to require, as a condition  
48 of employment, any employee or prospective employee to sign a

1 waiver, or to otherwise require an employee or prospective  
2 employee to agree, not to make those requests or disclosures.  
3 Nothing in this subsection shall be construed to require an  
4 employee to disclose such information about the employee herself  
5 to any other employee or former employee of the employer or to  
6 any authorized representative of the other employee or former  
7 employee.

8 s. For an employer to treat, for employment-related purposes, a  
9 woman employee that the employer knows, or should know, is  
10 affected by pregnancy or breastfeeding in a manner less favorable  
11 than the treatment of other persons not affected by pregnancy or  
12 breastfeeding but similar in their ability or inability to work. In  
13 addition, an employer of an employee who is a woman affected by  
14 pregnancy shall make available to the employee reasonable  
15 accommodation in the workplace, such as bathroom breaks, breaks  
16 for increased water intake, periodic rest, assistance with manual  
17 labor, job restructuring or modified work schedules, and temporary  
18 transfers to less strenuous or hazardous work, for needs related to  
19 the pregnancy when the employee, based on the advice of her  
20 physician, requests the accommodation, and, in the case of a  
21 employee breast feeding her infant child, the accommodation shall  
22 include reasonable break time each day to the employee and a  
23 suitable room or other location with privacy, other than a toilet stall,  
24 in close proximity to the work area for the employee to express  
25 breast milk for the child, unless the employer can demonstrate that  
26 providing the accommodation would be an undue hardship on the  
27 business operations of the employer. The employer shall not in any  
28 way penalize the employee in terms, conditions or privileges of  
29 employment for requesting or using the accommodation.  
30 Workplace accommodation provided pursuant to this subsection and  
31 paid or unpaid leave provided to an employee affected by  
32 pregnancy or breastfeeding shall not be provided in a manner less  
33 favorable than accommodations or leave provided to other  
34 employees not affected by pregnancy or breastfeeding but similar in  
35 their ability or inability to work. This subsection shall not be  
36 construed as otherwise increasing or decreasing any employee's  
37 rights under law to paid or unpaid leave in connection with  
38 pregnancy or breastfeeding.

39 For the purposes of this section "pregnancy or breastfeeding"  
40 means pregnancy, childbirth, and breast feeding or expressing milk  
41 for breastfeeding, or medical conditions related to pregnancy,  
42 childbirth, or breastfeeding, including recovery from childbirth.

43 For the purposes of this subsection, in determining whether an  
44 accommodation would impose undue hardship on the operation of  
45 an employer's business, the factors to be considered include: the  
46 overall size of the employer's business with respect to the number  
47 of employees, number and type of facilities, and size of budget; the  
48 type of the employer's operations, including the composition and

1 structure of the employer's workforce; the nature and cost of the  
2 accommodation needed, taking into consideration the availability of  
3 tax credits, tax deductions, and outside funding; and the extent to  
4 which the accommodation would involve waiver of an essential  
5 requirement of a job as opposed to a tangential or non-business  
6 necessity requirement.

7 t. For an employer to pay any of its employees who is a  
8 member of a protected class at a rate of compensation, including  
9 benefits, which is less than the rate paid by the employer to  
10 employees who are not members of the protected class for  
11 substantially similar work, when viewed as a composite of skill,  
12 effort and responsibility. An employer who is paying a rate of  
13 compensation in violation of this subsection shall not reduce the  
14 rate of compensation of any employee in order to comply with this  
15 subsection. An employer may pay a different rate of compensation  
16 only if the employer demonstrates that the differential is made  
17 pursuant to a seniority system, a merit system, or the employer  
18 demonstrates:

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

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

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

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

29 (5) That the factors are job-related with respect to the position  
30 in question and based on a legitimate business necessity. A factor  
31 based on business necessity shall not apply if it is demonstrated that  
32 there are alternative business practices that would serve the same  
33 business purpose without producing the wage differential.

34 Comparisons of wage rates shall be based on wage rates in all of  
35 an employer's operations or facilities. For the purposes of this  
36 subsection, "member of a protected class" means an employee who  
37 has one or more characteristics, including race, creed, color,  
38 national origin, nationality, ancestry, age, marital status, civil union  
39 status, domestic partnership status, affectional or sexual orientation,  
40 genetic information, pregnancy, sex, gender identity or expression,  
41 disability or atypical hereditary cellular or blood trait of any  
42 individual, or liability for service in the armed forces, for which  
43 subsection a. of this section prohibits an employer from refusing to  
44 hire or employ or barring or discharging or requiring to retire from  
45 employment or discriminating against the individual in  
46 compensation or in terms, conditions or privileges of employment.

47 Nothing in this subsection shall be interpreted to preclude  
48 employers from engaging interns in unpaid positions or paying

1 interns at a different rate than other staff, provided, however, that if  
2 an employer provides compensation to interns, the employer shall  
3 not provide compensation to interns who are members of a  
4 protected class at a rate less than interns who are not members of  
5 the protected class for substantially similar work, when viewed as a  
6 composite of skill, effort and responsibility.

7 u. This section shall be liberally construed for the  
8 accomplishment of the remedial purposes of P.L.1945, c.169  
9 (C.10:5-1 et seq.). The construction of similar laws in federal  
10 courts or other jurisdictions shall not be used to limit the  
11 availability of remedies under P.L.1945, c.169 (C.10:5-1 et seq.),  
12 the purpose of which is to maximize deterrence of discriminatory,  
13 harassing and retaliatory conduct.

14 (cf: P.L.2019, c.436, s.3)

15  
16 9. Section 1 of P.L.2019, c.39 (C.10:5-12.7) is amended to read  
17 as follows:

18 1. a. A provision in any employment contract, including any  
19 contract for the performance of domestic work, that waives any  
20 substantive or procedural right or remedy relating to a claim of  
21 discrimination, retaliation, or harassment shall be deemed against  
22 public policy and unenforceable.

23 b. No right or remedy under the “Law Against Discrimination,”  
24 P.L.1945, c.169 (C.10:5-1 et seq.) or any other statute or case law  
25 shall be prospectively waived.

26 c. This section shall not apply to the terms of any collective  
27 bargaining agreement between an employer and the collective  
28 bargaining representative of the employees.

29 (cf: P.L.2019, c.39, s.1)

30  
31 10. Section 5 of P.L.2019, c.39 (C.10:5-12.11) is amended to  
32 read as follows:

33 5. Any person claiming to be aggrieved by a violation of  
34 P.L.2019, c.39 (C.10:5-12.7 et seq.) may initiate suit in Superior  
35 Court. An action pursuant to this section shall be commenced  
36 within **[two]** three years **[next]** after the cause of any such action  
37 shall have accrued, or after the person became aware of the  
38 violation. All remedies available in common law tort actions shall  
39 be available to prevailing plaintiffs. These remedies are in addition  
40 to any provided by P.L.2019, c.39 (C.10:5-12.7 et seq.) or any other  
41 statute. A prevailing plaintiff shall be awarded reasonable  
42 **[attorney]** attorney’s fees and costs, and punitive damages may be  
43 awarded by the jury.

44 (cf: P.L.2019, c.39, s.5)

45  
46 11. Section 12 of P.L.1945, c.169 (C.10:5-13) is amended to  
47 read as follows:



1       12. a. (1) Any person claiming to be aggrieved by an unlawful  
2 employment practice or an unlawful discrimination may, personally  
3 or by an attorney-at-law, make, sign, and file with the division a  
4 verified complaint in writing which shall state the name and address  
5 of the person, employer, labor organization, employment agency,  
6 owner, lessee, proprietor, manager, superintendent, or agent alleged  
7 to have committed the unlawful employment practice or unlawful  
8 discrimination complained of and which shall set forth the  
9 particulars thereof and shall contain such other information as may  
10 be required by the division. The complaint shall be filed with the  
11 division or in any municipal office pursuant to P.L.1945, c.169  
12 (C.10:5-1 et seq.) within one year after the occurrence of, or within  
13 one year after the person became aware of, an alleged unlawful  
14 employment practice or unlawful discrimination based on any other  
15 category protected by P.L.1945, c.169 (C.10:5-1 et seq.). Upon  
16 receipt of the complaint, the division shall notify the complainant  
17 on a form promulgated by the director of the division and approved  
18 by the Attorney General of the complainant's rights under P.L.1945,  
19 c.169 (C.10:5-1 et seq.), including the right to file a complaint in  
20 the Superior Court to be heard before a jury; of the jurisdictional  
21 limitations of the division; and any other provisions of P.L.1945,  
22 c.169 (C.10:5-1 et seq.), without interpretation, that may apply to  
23 the complaint. The Commissioner of Labor and Workforce  
24 Development, the Attorney General, the director, or the  
25 Commissioner of Education may, in like manner, make, sign, and  
26 file such complaint. Any employer whose employees, or some of  
27 them, refuse, or threaten to refuse to cooperate with the provisions  
28 of P.L.1945, c.169 (C.10:5-1 et seq.), may file with the division a  
29 verified complaint asking for assistance by conciliation or other  
30 remedial action. The division shall issue a notice of right to sue at  
31 the time the division closes an investigation, except that a  
32 complainant may request such notice and the termination of an  
33 investigation at any time.

34       (2) Any complainant, including any person claiming to be  
35 aggrieved by an unlawful employment practice or an unlawful  
36 discrimination, the Attorney General, the director, the  
37 Commissioner of Labor and Workforce Development, or the  
38 Commissioner of Education, may initiate suit in Superior Court  
39 under P.L.1945, c.169 (C.10:5-1 et seq.) without first filing a  
40 complaint with the division or any municipal office. Filing a  
41 complaint with the division shall not cause a complainant to waive  
42 the complainant's right to initiate suit in Superior Court. The  
43 division's finding of no probable cause shall not preclude the filing  
44 of a complaint in Superior Court for a de novo trial. Any such  
45 action, other than an action by the Attorney General or the director,  
46 shall be commenced within three years after the cause of action  
47 shall have accrued, except that this right shall be tolled while the  
48 division is conducting any investigation or proceedings under this

1 subsection. The failure to file a complaint or otherwise participate  
2 in a relevant process created by the employer prior to filing suit in  
3 Superior Court shall not bar the complainant from filing suit or  
4 receiving a full recovery. In such proceedings:

5 (a) Upon the application of any party, a jury trial shall be  
6 directed to try the validity of any claim under P.L.1945, c.169  
7 (C.10:5-1 et seq.) specified in the suit.

8 (b) All remedies available in common law tort actions shall be  
9 available to prevailing plaintiffs, and if the Attorney General or the  
10 director is a prevailing plaintiff, those remedies shall be available  
11 on behalf of named or unnamed victims. If the suit seeks relief for  
12 one or more unnamed members of a protected class, the Attorney  
13 General or the director shall have the discretion to settle the suit on  
14 such terms as the Attorney General or the director deems  
15 appropriate. The injunctive relief set forth in section 16 of  
16 P.L.1945, c.169 (C.10:5-17) shall also be available to prevailing  
17 plaintiffs. These remedies are in addition to any other provided by  
18 P.L.1945, c.169 (C.10:5-1 et seq.) or any other statute.

19 (c) In addition to the remedies set forth in subparagraph (b) of  
20 this paragraph, the Attorney General or director may seek and  
21 obtain from the Superior Court penalties pursuant to section 2 of  
22 P.L.1983, c.412 (C.10:5-14.1a). In the alternative, in lieu of these  
23 penalties, the Attorney General or director may seek and obtain  
24 punitive damages payable to the State upon a finding that the  
25 provisions of P.L.1995, c.142 (C.2A:15-5.9 et al.) are satisfied.

26 Prosecution of such suit in Superior Court under P.L.1945, c.169  
27 (C.10:5-1 et seq.) shall bar the filing of a complaint with the  
28 division or any municipal office during the pendency of any such  
29 suit.

30 (d) If a jury or court determines that an employer has committed  
31 an unlawful employment practice prohibited by subsection r. or t. of  
32 section 11 of P.L.1945, c.169 (C.10:5-12), the judge shall award  
33 three times any monetary damages to the person or persons  
34 aggrieved by the violation.

35 In accordance with existing law, the employer shall remain  
36 wholly liable for damages awarded under this subsection and there  
37 shall be no apportionment of damages except between co-employers  
38 or successive and predecessor employers. Nothing in this  
39 subsection should be construed to limit a jury or court from  
40 awarding separate damages against other liable defendants. The  
41 defendant shall have the burden of proving the plaintiff failed to  
42 mitigate applicable damages.

43 If a jury or court determines that an employer has committed an  
44 unlawful employment practice which would lead a reasonable  
45 person in the same protected category to find the workplace  
46 intolerable or damaging to their health or emotional wellbeing, the  
47 jury or court shall determine an employee's voluntary exit from the  
48 workplace to be a constructive discharge.

1 (e) Notwithstanding the provisions of section 6 of P.L.1979,  
2 c.404 (C.10:5-27.1), if the Attorney General or the director is a  
3 prevailing plaintiff, the court shall award reasonable attorney's fees  
4 and litigation and investigation costs.

5 b. At any time after 180 days from the filing of a complaint  
6 with the division, a complainant may file a request with the division  
7 to present the action personally or through counsel to the Office of  
8 Administrative Law. Upon such request, the director of the division  
9 shall file the action with the Office of Administrative Law,  
10 provided that no action may be filed with the Office of  
11 Administrative Law, where the director of the division has found  
12 that no probable cause exists to credit the allegations of the  
13 complaint or has otherwise dismissed the complaint.

14 c. A party to an action based upon a violation of P.L.1945,  
15 c.169 (C.10:5-1 et seq.) shall mail a copy of the initial pleadings or  
16 claims, amended pleadings or claims, counterclaims, briefs, and  
17 legal memoranda to the division at the same time as filing such  
18 documents with the Office of Administrative Law or the court.  
19 Upon application to the Office of Administrative Law or to the  
20 court wherein the matter is pending, the division shall be permitted  
21 to intervene.

22 (cf: P.L.2019, c.436, s.5)

23  
24 12. Section 17 of P.L.1945, c.169 (C.10:5-18) is amended to  
25 read as follows:

26 The Attorney General shall establish rules of practice to govern,  
27 expedite and effectuate the foregoing procedure and **his** the  
28 Attorney General's own actions thereunder. Any complaint filed in  
29 the division or in any municipal office pursuant to this act must be  
30 so filed within **180 days** one year after the alleged act of  
31 discrimination or from the discovery of the alleged act of  
32 discrimination.

33 (cf: P.L.1979, c.404, s.4)

34  
35 13. Section 4 of P.L.1985, c.73 (C.10:5-2.2) and section 5 of  
36 P.L.1385, c.73 (C.10:5-12.1) are repealed.

37  
38 14. This act shall take effect of the first day of the third month  
39 following enactment.

#### 40 41 42 STATEMENT

43  
44 This bill makes it an unlawful discrimination in violation of the  
45 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et  
46 seq.)("LAD") to subject an individual, in employment, public  
47 accommodations, or housing, to sexual harassment or other  
48 unlawful harassment.

1       The bill extends the protections of the LAD to cover domestic  
2 workers, interns, and independent contractors.

3       The bill requires employers to establish written  
4 nondiscrimination workplace policies to prevent unlawful  
5 discrimination and harassment, which explain the policies, and  
6 stipulate procedures and remedies for violations.

7       The bill requires all employers to provide interactive training to  
8 all supervisory employees and all other employees regarding the  
9 prevention of unlawful discrimination and harassment in the  
10 workplace, and sets standards for the training and the  
11 responsibilities of supervisors under the bill. Each employer with  
12 50 or more employees is required to provide the training in a live,  
13 in-person setting where participants can ask questions.

14       The bill also sets requirements for each employer with 50 or  
15 more employees regarding the collection and reporting to the  
16 division by an employer of data regarding complaints of violations  
17 of the provisions of the bill.

18       The bill sets standards and procedures for determining when  
19 unlawful harassment occurs. It provides that:

20       1. Prior complaints of harassment or unlawful discriminatory  
21 practices by the same employer or relevant organization are  
22 discoverable and relevant, whether or not the complainant  
23 witnessed or had been aware of those complaints;

24       2. The harassment is unlawful when it subjects an individual to  
25 inferior terms, conditions, or privileges of employment, even if the  
26 harassment is not shown to be severe or pervasive;

27       3. An individual does not have to make a complaint about the  
28 harassment to the individual's employer or other relevant  
29 organization for the employer to be liable;

30       4. An employee is not required to demonstrate the existence of  
31 an individual to whom the employee's treatment must be compared;

32       5. It is a defense against liability that the harassing conduct  
33 does not rise above the level of what a reasonable victim of  
34 discrimination would consider petty slights or trivial  
35 inconveniences.

36       6. It is unlawful for an employer to allow any family  
37 member or member of their household, regardless of age, to engage  
38 in sexual or other unlawful harassment, or for an employer to  
39 request or keep possession of the employee identification  
40 documents;

41       7. A complainant of unlawful harassment is not required to  
42 demonstrate loss of job benefits or to prove that the complainant's  
43 productivity declined because of the harassment.

44       The bill extends protections against age discrimination by:

45       1. Deleting the provisions of law permitting a governmental  
46 employer to require retirement when an employee attains a  
47 particular age if the employer can show "that the retirement age  
48 bears a manifest relationship to the employment in question";

1       2. Deleting the provisions of the LAD that permit an employer  
2 to refuse to hire a person for the sole reason of being more than 70  
3 years old;

4       3. Providing that, if an employer unlawfully requires an  
5 employee to retire because of age, the employee has available all of  
6 the remedies provided by the LAD, instead of, as under current law,  
7 being limited to filing a complaint with the Attorney General, and  
8 limiting relief to reinstatement with back pay and interest; and

9       4. Repealing the law permitting institutions of higher education  
10 to compel tenured employees to retire at 70 years of age.

11       The bill provides that a claim made by an employee or a  
12 dependent of the employee for compensation under the workers'  
13 compensation law, R.S. 34:15-1 et seq., for an injury, occupational  
14 disease, or death shall not preclude the filing by, or on behalf of, the  
15 employee or dependent of a complaint regarding an unlawful  
16 employment practice with the Division on Civil Rights or in  
17 Superior Court pursuant to P.L.1945, c.169 (C.10:5-1 et seq.)  
18 seeking relief for damages caused by the unlawful employment  
19 practice, even if the damages include damages from injury,  
20 occupational disease, or death which may be compensable under the  
21 claim made for workers' compensation.

22       Finally, the bill sets or extends the periods of time in which  
23 certain actions regarding unlawful discrimination may be taken.