

# SENATE, No. 1602

## STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Senator ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Senator ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Senator Ruiz**

**SYNOPSIS**

Prohibits discrimination on basis of height or weight under “Law Against Discrimination.”

**CURRENT VERSION OF TEXT**

As reported by the Senate Labor Committee with technical review.



(Sponsorship Updated As Of: 2/12/2024)

1 AN ACT concerning discrimination on the basis of height or weight  
2 and amending P.L.1945, c.169, P.L.1954, c.198, and P.L.1992,  
3 c.146.

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

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

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

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

34 The Legislature further finds that because of discrimination,  
35 people suffer personal hardships, and the State suffers a grievous  
36 harm. The personal hardships include: economic loss; time loss;  
37 physical and emotional stress; and in some cases severe emotional  
38 trauma, illness, homelessness or other irreparable harm resulting  
39 from the strain of employment controversies; relocation, search and  
40 moving difficulties; anxiety caused by lack of information,  
41 uncertainty, and resultant planning difficulty; career, education,  
42 family and social disruption; and adjustment problems, which  
43 particularly impact on those protected by this act. Such harms  
44 have, under the common law, given rise to legal remedies, including  
45 compensatory and punitive damages. The Legislature intends that

**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 such damages be available to all persons protected by this act and  
2 that this act shall be liberally construed in combination with other  
3 protections available under the laws of this State.

4 (cf: P.L.2019, c.436, s.1)

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

8 4. All persons shall have the opportunity to obtain  
9 employment, and to obtain all the accommodations, advantages,  
10 facilities, and privileges of any place of public accommodation,  
11 publicly assisted housing accommodation, and other real property  
12 without discrimination because of race, creed, color, national origin,  
13 ancestry, age, marital status, affectional or sexual orientation,  
14 familial status, disability, liability for service in the Armed Forces  
15 of the United States, nationality, sex, gender identity or expression  
16 **[or]**, source of lawful income used for rental or mortgage  
17 payments, or height or weight subject only to conditions and  
18 limitations applicable alike to all persons. This opportunity is  
19 recognized as and declared to be a civil right.

20 (cf: P.L.2017, c.184, s.1)

21  
22 3. Section 6 of P.L.1945, c.169 (C.10:5-6) is amended to read  
23 as follows:

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

40 (cf: P.L.2006, c.100, s.5)

41  
42 4. Section 8 of P.L.1945, c.169 (C.10:5-8) is amended to read as  
43 follows:

44 8. The Attorney General shall:

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

47 b. Administer the work of the division.

1       c. Organize the division into sections, which shall include but  
2 not be limited to a section which shall receive, investigate, and act  
3 upon complaints alleging discrimination against persons because of  
4 race, creed, color, national origin, ancestry, age, marital status,  
5 affectional or sexual orientation, gender identity or expression,  
6 familial status, disability, nationality **[or]**, sex **[or]**, because of  
7 their liability for service in the Armed Forces of the United States,  
8 or height or weight; and another which shall, in order to eliminate  
9 prejudice and to further good will among the various racial and  
10 religious and nationality groups in this State, study, recommend,  
11 prepare and implement, in cooperation with such other departments  
12 of the State Government or any other agencies, groups or entities  
13 both public and private, such educational and human relations  
14 programs as are consonant with the objectives of this act; and  
15 prescribe the organization of said sections and the duties of his  
16 subordinates and assistants.

17       d. Appoint a Director of the Division on Civil Rights, who  
18 shall act for the Attorney General, in the Attorney General's place  
19 and with the Attorney General's powers, which appointment shall be  
20 subject to the approval of the commission and the Governor, a  
21 deputy director and such assistant directors, field representatives  
22 and assistants as may be necessary for the proper administration of  
23 the division and fix their compensation within the limits of  
24 available appropriations. The director, deputy director, assistant  
25 directors, field representatives and assistants shall not be subject to  
26 the Civil Service Act and shall be removable by the Attorney  
27 General at will.

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

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

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

35       h. Conduct investigations, receive complaints and conduct  
36 hearings thereon other than those complaints received and hearings  
37 held pursuant to the provisions of this act.

38       i. In connection with any investigation or hearing held  
39 pursuant to the provisions of this act, subpoena witnesses, compel  
40 their attendance, administer oaths, take the testimony of any person,  
41 under oath, and, in connection therewith, require the production for  
42 examination of any books or papers relating to any subject matter  
43 under investigation or in question by the division and conduct such  
44 discovery procedures which may include the taking of  
45 interrogatories and oral depositions as shall be deemed necessary by  
46 the Attorney General in any investigation. The Attorney General  
47 may make rules as to the issuance of subpoenas by the director.  
48 The failure of any witness when duly subpoenaed to attend, give

1 testimony, or produce evidence shall be punishable by the Superior  
2 Court of New Jersey in the same manner as such failure is  
3 punishable by such court in a case therein pending.

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

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

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

22 (cf: P.L.2006, c.100, s.6)

23

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

26 1. The Division on Civil Rights in the Department of Law and  
27 Public Safety shall enforce the laws of this State against  
28 discrimination in housing built with, or leased with the assistance  
29 of, public funds or public assistance, pursuant to any law, and in  
30 real property, as defined in the law hereby supplemented, because  
31 of race, religious principles, color, national origin, ancestry, marital  
32 status, affectional or sexual orientation, familial status, disability,  
33 liability for service in the Armed Forces of the United States,  
34 nationality, sex, gender identity or expression **【or】**, source of lawful  
35 income used for rental or mortgage payments, or height or weight.  
36 The said laws shall be so enforced in the manner prescribed in the  
37 act to which this act is a supplement.

38 (cf: P.L.2017, c.184, s.2)

39

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

42 9. The commission shall:

43 a. Consult with and advise the Attorney General with respect to  
44 the work of the division.

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

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

1       The mayors or chief executive officers of the municipalities in  
2       the State may appoint local commissions on civil rights to aid in  
3       effectuating the purposes of this act. Such local commissions shall  
4       be composed of representative citizens serving without  
5       compensation. Such commissions shall attempt to foster through  
6       community effort or otherwise, good will, cooperation and  
7       conciliation among the groups and elements of the inhabitants of  
8       the community, and they may be empowered by the local governing  
9       bodies to make recommendations to them for the development of  
10      policies and procedures in general and for programs of formal and  
11      informal education that will aid in eliminating all types of  
12      discrimination based on race, creed, color, national origin, ancestry,  
13      age, marital status, affectional or sexual orientation, gender identity  
14      or expression, familial status, disability, nationality **[or]**, sex or  
15      height or weight.

16      (cf: P.L.2006, c.100, s.8)

17

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

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

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

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

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

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

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

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

44 Nothing in this subsection shall prohibit the application of the  
45 doctrine of "continuing violation" or the "discovery rule" to any  
46 appropriate claim as those doctrines currently exist in New Jersey  
47 common law. It shall be an unlawful employment practice to  
48 require employees or prospective employees to consent to a

1 shortened statute of limitations or to waive any of the protections  
2 provided by the "Law Against Discrimination," P.L.1945, c.169  
3 (C.10:5-1 et seq.).

4 b. For a labor organization, because of the race, creed, color,  
5 national origin, ancestry, age, marital status, civil union status,  
6 domestic partnership status, affectional or sexual orientation,  
7 gender identity or expression, disability, pregnancy or  
8 breastfeeding, or sex of any individual, or because of the liability  
9 for service in the Armed Forces of the United States or nationality  
10 of any individual, or because of the height or weight of any  
11 individual, except in any circumstance in which the height or  
12 weight of an individual is a bona fide occupational qualification, to  
13 exclude or to expel from its membership such individual or to  
14 discriminate in any way against any of its members, against any  
15 applicant for, or individual included in, any apprentice or other  
16 training program or against any employer or any individual  
17 employed by an employer; provided, however, that nothing herein  
18 contained shall be construed to bar a labor organization from  
19 excluding from its apprentice or other training programs any person  
20 on the basis of sex in those certain circumstances where sex is a  
21 bona fide occupational qualification reasonably necessary to the  
22 normal operation of the particular apprentice or other training  
23 program.

24 c. For any employer or employment agency to print or circulate  
25 or cause to be printed or circulated any statement, advertisement or  
26 publication, or to use any form of application for employment, or to  
27 make an inquiry in connection with prospective employment, which  
28 expresses, directly or indirectly, any limitation, specification or  
29 discrimination as to race, creed, color, national origin, ancestry,  
30 age, marital status, civil union status, domestic partnership status,  
31 affectional or sexual orientation, gender identity or expression,  
32 disability, nationality, pregnancy or breastfeeding, or sex or liability  
33 of any applicant for employment for service in the Armed Forces of  
34 the United States, or because of the height or weight of any  
35 individual, except in any circumstance in which the height or  
36 weight of an individual is a bona fide occupational qualification, or  
37 any intent to make any such limitation, specification or  
38 discrimination, unless based upon a bona fide occupational  
39 qualification.

40 d. For any person to take reprisals against any person because  
41 that person has opposed any practices or acts forbidden under this  
42 act or because that person has sought legal advice regarding rights  
43 under this act, shared relevant information with legal counsel,  
44 shared information with a governmental entity, or filed a complaint,  
45 testified or assisted in any proceeding under this act or to coerce,  
46 intimidate, threaten or interfere with any person in the exercise or  
47 enjoyment of, or on account of that person having aided or



1 encouraged any other person in the exercise or enjoyment of, any  
2 right granted or protected by this act.

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

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

1 any place of public accommodation may deny accommodations,  
2 advantages, facilities, or privileges of any such place on the basis of  
3 height or weight for bona fide safety reasons.

4 (2) Notwithstanding the definition of "a place of public  
5 accommodation" as set forth in subsection 1. of section 5 of  
6 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,  
7 manager, superintendent, agent, or employee of any private club or  
8 association to directly or indirectly refuse, withhold from or deny to  
9 any individual who has been accepted as a club member and has  
10 contracted for or is otherwise entitled to full club membership any  
11 of the accommodations, advantages, facilities or privileges thereof,  
12 or to discriminate against any member in the furnishing thereof on  
13 account of the race, creed, color, national origin, ancestry, marital  
14 status, civil union status, domestic partnership status, pregnancy or  
15 breastfeeding, sex, gender identity, or expression, affectional or  
16 sexual orientation, disability, liability for service in the Armed  
17 Forces of the United States **[or]**, nationality **[of such person]**, or  
18 because of the height or weight of any individual.

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

27 g. For any person, including but not limited to, any owner,  
28 lessee, sublessee, assignee or managing agent of, or other person  
29 having the right of ownership or possession of or the right to sell,  
30 rent, lease, assign, or sublease any real property or part or portion  
31 thereof, or any agent or employee of any of these:

32 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
33 to deny to or withhold from any person or group of persons any real  
34 property or part or portion thereof because of race, creed, color,  
35 national origin, ancestry, marital status, civil union status, domestic  
36 partnership status, pregnancy or breastfeeding, sex, gender identity  
37 or expression, affectional or sexual orientation, familial status,  
38 disability, liability for service in the Armed Forces of the United  
39 States, nationality, **[or]** source of lawful income used for rental or  
40 mortgage payments, or because of the height or weight of any  
41 individual;

42 (2) To discriminate against any person or group of persons  
43 because of race, creed, color, national origin, ancestry, marital  
44 status, civil union status, domestic partnership status, pregnancy or  
45 breastfeeding, sex, gender identity or expression, affectional or  
46 sexual orientation, familial status, disability, liability for service in  
47 the Armed Forces of the United States, nationality **[or]**, source of  
48 lawful income used for rental or mortgage payments, or because of

1 the height or weight of any individual in the terms, conditions or  
2 privileges of the sale, rental or lease of any real property or part or  
3 portion thereof or in the furnishing of facilities or services in  
4 connection therewith;

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

33 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
34 to deny to or withhold from any person or group of persons any real  
35 property or part or portion thereof because of the source of any  
36 lawful income received by the person or the source of any lawful  
37 rent payment to be paid for the real property; or

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

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

47 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
48 sale, rental, lease, assignment, or sublease any real property or part

1 or portion thereof to any person or group of persons or to refuse to  
2 negotiate for the sale, rental, lease, assignment, or sublease of any  
3 real property or part or portion thereof to any person or group of  
4 persons because of race, creed, color, national origin, ancestry,  
5 marital status, civil union status, domestic partnership status,  
6 familial status, pregnancy or breastfeeding, sex, gender identity or  
7 expression, affectional or sexual orientation, liability for service in  
8 the Armed Forces of the United States, disability, nationality, **[or]**  
9 source of lawful income used for rental or mortgage payments, or  
10 because of the height or weight of any individual, or to represent  
11 that any real property or portion thereof is not available for  
12 inspection, sale, rental, lease, assignment, or sublease when in fact  
13 it is so available, or otherwise to deny or withhold any real property  
14 or any part or portion of facilities thereof to or from any person or  
15 group of persons because of race, creed, color, national origin,  
16 ancestry, marital status, civil union status, domestic partnership  
17 status, familial status, pregnancy or breastfeeding, sex, gender  
18 identity or expression, affectional or sexual orientation, disability,  
19 liability for service in the Armed Forces of the United States, **[or]**  
20 nationality, or because of the height or weight of any individual;

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

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

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

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

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

25 i. For any person, bank, banking organization, mortgage  
26 company, insurance company or other financial institution, lender  
27 or credit institution involved in the making or purchasing of any  
28 loan or extension of credit, for whatever purpose, whether secured  
29 by residential real estate or not, including but not limited to  
30 financial assistance for the purchase, acquisition, construction,  
31 rehabilitation, repair or maintenance of any real property or part or  
32 portion thereof or any agent or employee thereof:

33 (1) To discriminate against any person or group of persons  
34 because of race, creed, color, national origin, ancestry, marital  
35 status, civil union status, domestic partnership status, pregnancy or  
36 breastfeeding, sex, gender identity or expression, affectional or  
37 sexual orientation, disability, liability for service in the Armed  
38 Forces of the United States, familial status **[or]**, nationality, or the  
39 height or weight of any individual, in the granting, withholding,  
40 extending, modifying, renewing, or purchasing, or in the fixing of  
41 the rates, terms, conditions or provisions of any such loan,  
42 extension of credit or financial assistance or purchase thereof or in  
43 the extension of services in connection therewith;

44 (2) To use any form of application for such loan, extension of  
45 credit or financial assistance or to make record or inquiry in  
46 connection with applications for any such loan, extension of credit  
47 or financial assistance which expresses, directly or indirectly, any  
48 limitation, specification or discrimination as to race, creed, color,

1 national origin, ancestry, marital status, civil union status, domestic  
2 partnership status, pregnancy or breastfeeding, sex, gender identity  
3 or expression, affectional or sexual orientation, disability, liability  
4 for service in the Armed Forces of the United States, familial status  
5 **【or】**, nationality, or because of the height or weight of any  
6 individual, or any intent to make any such limitation, specification  
7 or discrimination; unless otherwise required by law or regulation to  
8 retain or use such information;

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

10 (4) To discriminate against any person or group of persons  
11 because of the source of any lawful income received by the person  
12 or the source of any lawful rent payment to be paid for the real  
13 property; or

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

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

25 k. For any real estate broker, real estate salesperson or  
26 employee or agent thereof or any other individual, corporation,  
27 partnership, or organization, for the purpose of inducing a  
28 transaction for the sale or rental of real property from which  
29 transaction such person or any of its members may benefit  
30 financially, to represent that a change has occurred or will or may  
31 occur in the composition with respect to race, creed, color, national  
32 origin, ancestry, marital status, civil union status, domestic  
33 partnership status, familial status, pregnancy or breastfeeding, sex,  
34 gender identity or expression, affectional or sexual orientation,  
35 disability, liability for service in the Armed Forces of the United  
36 States, nationality, **【or】** source of lawful income used for rental or  
37 mortgage payments, or because of the height or weight of any  
38 individual, of the owners or occupants in the block, neighborhood  
39 or area in which the real property is located, and to represent,  
40 directly or indirectly, that this change will or may result in  
41 undesirable consequences in the block, neighborhood or area in  
42 which the real property is located, including, but not limited to the  
43 lowering of property values, an increase in criminal or anti-social  
44 behavior, or a decline in the quality of schools or other facilities.

45 l. For any person to refuse to buy from, sell to, lease from or  
46 to, license, contract with, or trade with, provide goods, services or  
47 information to, or otherwise do business with any other person on  
48 the basis of the race, creed, color, national origin, ancestry, age,

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

15 m. For any person to:

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (cf: P.L.2021, c.248, s.2)

18

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

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

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

38 (cf: P.L.2019, c.436, s.4)

39

40 9. This act shall take effect immediately.