

# SENATE, No. 539

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**SYNOPSIS**

The “New Jersey Intern Protection Act”; provides legal protections and remedies for persons engaged in unpaid internships with employers.

**CURRENT VERSION OF TEXT**

As introduced.



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2

1 AN ACT providing protections and remedies for persons engaged in  
2 unpaid internships with employers, designated the “New Jersey  
3 Intern Protection Act,” and amending the titles and bodies of  
4 various parts of the statutory law.

5

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

8

9 1. The title of P.L.2001, c.385 is amended to read as follows:

10 AN ACT imposing liability on employers who discharge or  
11 discriminate against employees or unpaid interns for displaying  
12 the American flag , and supplementing P.L.1945, c.169 (C.10:5-  
13 1 et seq.).

14

15 2. The title of P.L.1986, c.105 is amended to read as follows:

16 AN ACT **[to protect employees from]** concerning retaliatory  
17 **[action]** actions by employers and supplementing Title 34 of the  
18 Revised Statutes.

19 (cf: P.L.1986, c.105, title)

20

21 3. The title of P.L.2006, c.53 is amended to read as follows:

22 AN ACT concerning employer communications **[to employees]**  
23 about religious and political matters, and supplementing Title 34  
24 of the Revised Statutes.

25 (cf: P.L.2006, c.53, title)

26

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

29 3. The Legislature finds and declares that practices of  
30 discrimination against any of its inhabitants, because of race, creed,  
31 color, national origin, ancestry, age, sex, gender identity or  
32 expression, affectional or sexual orientation, marital status, familial  
33 status, liability for service in the Armed Forces of the United States,  
34 disability or nationality, are matters of concern to the government  
35 of the State, and that such discrimination threatens not only the  
36 rights and proper privileges of the inhabitants of the State but  
37 menaces the institutions and foundation of a free democratic State;  
38 provided, however, that nothing in this expression of policy  
39 prevents the making of legitimate distinctions between citizens and  
40 aliens when required by federal law or otherwise necessary to  
41 promote the national interest.

42 The Legislature further declares its opposition to such practices  
43 of discrimination when directed against any person by reason of the  
44 race, creed, color, national origin, ancestry, age, sex, gender  
45 identity or expression, affectional or sexual orientation, marital

**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.**

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1 status, liability for service in the Armed Forces of the United States,  
2 disability or nationality of that person or that person's spouse,  
3 partners, members, stockholders, directors, officers, managers,  
4 superintendents, agents, employees, unpaid interns, business  
5 associates, suppliers, or customers, in order that the economic  
6 prosperity and general welfare of the inhabitants of the State may  
7 be protected and ensured.

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

24 (cf: P.L.2006, c.100, s.2)

25

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

28 4. All persons shall have the opportunity to obtain employment  
29 or unpaid internships with an employer, and to obtain all the  
30 accommodations, advantages, facilities, and privileges of any place  
31 of public accommodation, publicly assisted housing  
32 accommodation, and other real property without discrimination  
33 because of race, creed, color, national origin, ancestry, age, marital  
34 status, affectional or sexual orientation, familial status, disability,  
35 nationality, sex, gender identity or expression or source of lawful  
36 income used for rental or mortgage payments, subject only to  
37 conditions and limitations applicable alike to all persons. This  
38 opportunity is recognized as and declared to be a civil right.

39 (cf: P.L.2006, c.100, s.3)

40

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

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

45 a. "Person" includes one or more individuals, partnerships,  
46 associations, organizations, labor organizations, corporations, legal

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- 1 representatives, trustees, trustees in bankruptcy, receivers, and  
2 fiduciaries.
- 3 b. "Employment agency" includes any person undertaking to  
4 procure employees or opportunities for others to work.
- 5 c. "Labor organization" includes any organization which exists  
6 and is constituted for the purpose, in whole or in part, of collective  
7 bargaining, or of dealing with employers concerning grievances,  
8 terms or conditions of employment, or of other mutual aid or  
9 protection in connection with employment.
- 10 d. "Unlawful employment practice" and "unlawful  
11 discrimination" include only those unlawful practices and acts  
12 specified in section 11 of P.L.1945, c.169 (C.10:5-12).
- 13 e. "Employer" includes all persons as defined in subsection a.  
14 of this section unless otherwise specifically exempt under another  
15 section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State,  
16 any political or civil subdivision thereof, and all public officers,  
17 agencies, boards or bodies.
- 18 f. (1) "Employee" does not include any individual employed in  
19 the domestic service of any person.
- 20 (2) "Unpaid intern" means an individual who performs work for  
21 an employer for the purpose of training, under the following  
22 circumstances:
- 23 (a) the employer is not committed to hiring the individual as an  
24 employee or in any other compensated capacity at the conclusion of  
25 the training period;
- 26 (b) the employer and the individual agree in writing that the  
27 individual is not entitled to any compensation for the work  
28 performed; and
- 29 (c) any work performed by the individual: (i) supplements  
30 employer training given in an educational environment intended to  
31 enhance the employability of the individual; (ii) provides  
32 experience for the benefit of the individual; and (iii) does not  
33 displace employees of the employer.
- 34 g. "Liability for service in the Armed Forces of the United  
35 States" means subject to being ordered as an individual or member  
36 of an organized unit into active service in the Armed Forces of the  
37 United States by reason of membership in the National Guard, naval  
38 militia or a reserve component of the Armed Forces of the United  
39 States, or subject to being inducted into such armed forces through  
40 a system of national selective service.
- 41 h. "Division" means the "Division on Civil Rights" created by  
42 P.L.1945, c.169 (C.10:5-1 et seq.).
- 43 i. "Attorney General" means the Attorney General of the State  
44 of New Jersey or his representative or designee.
- 45 j. "Commission" means the Commission on Civil Rights  
46 created by P.L.1945, c.169 (C.10:5-1 et seq.).

- 1 k. "Director" means the Director of the Division on Civil  
2 Rights.
- 3 l. "A place of public accommodation" shall include, but not be  
4 limited to: any tavern, roadhouse, hotel, motel, trailer camp,  
5 summer camp, day camp, or resort camp, whether for entertainment  
6 of transient guests or accommodation of those seeking health,  
7 recreation or rest; any producer, manufacturer, wholesaler,  
8 distributor, retail shop, store, establishment, or concession dealing  
9 with goods or services of any kind; any restaurant, eating house, or  
10 place where food is sold for consumption on the premises; any  
11 place maintained for the sale of ice cream, ice and fruit preparations  
12 or their derivatives, soda water or confections, or where any  
13 beverages of any kind are retailed for consumption on the premises;  
14 any garage, any public conveyance operated on land or water, or in  
15 the air, any stations and terminals thereof; any bathhouse,  
16 boardwalk, or seashore accommodation; any auditorium, meeting  
17 place, or hall; any theatre, motion-picture house, music hall, roof  
18 garden, skating rink, swimming pool, amusement and recreation  
19 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
20 pool parlor, or other place of amusement; any comfort station; any  
21 dispensary, clinic or hospital; any public library; any kindergarten,  
22 primary and secondary school, trade or business school, high  
23 school, academy, college and university, or any educational  
24 institution under the supervision of the State Board of Education, or  
25 the Commissioner of Education of the State of New Jersey.  
26 Nothing herein contained shall be construed to include or to apply  
27 to any institution, bona fide club, or place of accommodation, which  
28 is in its nature distinctly private; nor shall anything herein contained  
29 apply to any educational facility operated or maintained by a bona  
30 fide religious or sectarian institution, and the right of a natural  
31 parent or one in loco parentis to direct the education and upbringing  
32 of a child under his control is hereby affirmed; nor shall anything  
33 herein contained be construed to bar any private secondary or post  
34 secondary school from using in good faith criteria other than race,  
35 creed, color, national origin, ancestry, gender identity or expression  
36 or affectional or sexual orientation in the admission of students.
- 37 m. "A publicly assisted housing accommodation" shall include  
38 all housing built with public funds or public assistance pursuant to  
39 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,  
40 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,  
41 c.184, and all housing financed in whole or in part by a loan,  
42 whether or not secured by a mortgage, the repayment of which is  
43 guaranteed or insured by the federal government or any agency  
44 thereof.
- 45 n. The term "real property" includes real estate, lands,  
46 tenements and hereditaments, corporeal and incorporeal, and  
47 leaseholds, provided, however, that, except as to publicly assisted

1 housing accommodations, the provisions of this act shall not apply  
2 to the rental: (1) of a single apartment or flat in a two-family  
3 dwelling, the other occupancy unit of which is occupied by the  
4 owner as a residence; or (2) of a room or rooms to another person or  
5 persons by the owner or occupant of a one-family dwelling  
6 occupied by the owner or occupant as a residence at the time of  
7 such rental. Nothing herein contained shall be construed to bar any  
8 religious or denominational institution or organization, or any  
9 organization operated for charitable or educational purposes, which  
10 is operated, supervised or controlled by or in connection with a  
11 religious organization, in the sale, lease or rental of real property,  
12 from limiting admission to or giving preference to persons of the  
13 same religion or denomination or from making such selection as is  
14 calculated by such organization to promote the religious principles  
15 for which it is established or maintained. Nor does any provision  
16 under this act regarding discrimination on the basis of familial  
17 status apply with respect to housing for older persons.

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

41 p. "Real estate salesperson" includes any person who, for  
42 compensation, valuable consideration or commission, or other thing  
43 of value, or by reason of a promise or reasonable expectation  
44 thereof, is employed by and operates under the supervision of a  
45 licensed real estate broker to sell or offer to sell, buy or offer to buy  
46 or negotiate the purchase, sale or exchange of real estate, or offers  
47 or attempts to negotiate a loan secured or to be secured by a

1 mortgage or other encumbrance upon or transfer of real estate, or to  
2 lease or rent, or offer to lease or rent any real estate for others, or to  
3 collect rents for the use of real estate, or to solicit for prospective  
4 purchasers or lessees of real estate, or who is employed by a  
5 licensed real estate broker to sell or offer to sell lots or other parcels  
6 of real estate, at a stated salary, or upon a commission, or upon a  
7 salary and commission, or otherwise to sell real estate, or any parts  
8 thereof, in lots or other parcels.

9 q. "Disability" means physical disability, infirmity,  
10 malformation or disfigurement which is caused by bodily injury,  
11 birth defect or illness including epilepsy and other seizure  
12 disorders, and which shall include, but not be limited to, any degree  
13 of paralysis, amputation, lack of physical coordination, blindness or  
14 visual impediment, deafness or hearing impediment, muteness or  
15 speech impediment or physical reliance on a service or guide dog,  
16 wheelchair, or other remedial appliance or device, or any mental,  
17 psychological or developmental disability, including autism  
18 spectrum disorders, resulting from anatomical, psychological,  
19 physiological or neurological conditions which prevents the normal  
20 exercise of any bodily or mental functions or is demonstrable,  
21 medically or psychologically, by accepted clinical or laboratory  
22 diagnostic techniques. Disability shall also mean AIDS or HIV  
23 infection.

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

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

37 t. "Guide or service dog trainer" means any person who is  
38 employed by an organization generally recognized by agencies  
39 involved in the rehabilitation of persons with disabilities as  
40 reputable and competent to provide dogs with training, and who is  
41 actually involved in the training process.

42 u. "Housing accommodation" means any publicly assisted  
43 housing accommodation or any real property, or portion thereof,  
44 which is used or occupied, or is intended, arranged, or designed to  
45 be used or occupied, as the home, residence or sleeping place of one  
46 or more persons, but shall not include any single family residence

- 1 the occupants of which rent, lease, or furnish for compensation not  
2 more than one room therein.
- 3 v. "Public facility" means any place of public accommodation  
4 and any street, highway, sidewalk, walkway, public building, and  
5 any other place or structure to which the general public is regularly,  
6 normally or customarily permitted or invited.
- 7 w. "Deaf person" means any person whose hearing is so  
8 severely impaired that the person is unable to hear and understand  
9 normal conversational speech through the unaided ear alone, and  
10 who must depend primarily on a supportive device or visual  
11 communication such as writing, lip reading, sign language, and  
12 gestures.
- 13 x. "Atypical hereditary cellular or blood trait" means sickle cell  
14 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
15 fibrosis trait.
- 16 y. "Sickle cell trait" means the condition wherein the major  
17 natural hemoglobin components present in the blood of the  
18 individual are hemoglobin A (normal) and hemoglobin S (sickle  
19 hemoglobin) as defined by standard chemical and physical analytic  
20 techniques, including electrophoresis; and the proportion of  
21 hemoglobin A is greater than the proportion of hemoglobin S or one  
22 natural parent of the individual is shown to have only normal  
23 hemoglobin components (hemoglobin A, hemoglobin A2,  
24 hemoglobin F) in the normal proportions by standard chemical and  
25 physical analytic tests.
- 26 z. "Hemoglobin C trait" means the condition wherein the major  
27 natural hemoglobin components present in the blood of the  
28 individual are hemoglobin A (normal) and hemoglobin C as defined  
29 by standard chemical and physical analytic techniques, including  
30 electrophoresis; and the proportion of hemoglobin A is greater than  
31 the proportion of hemoglobin C or one natural parent of the  
32 individual is shown to have only normal hemoglobin components  
33 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal  
34 proportions by standard chemical and physical analytic tests.
- 35 aa. "Thalassemia trait" means the presence of the thalassemia  
36 gene which in combination with another similar gene results in the  
37 chronic hereditary disease Cooley's anemia.
- 38 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
39 which in combination with another similar gene results in the  
40 chronic hereditary disease Tay-Sachs.
- 41 cc. "Cystic fibrosis trait" means the presence of the cystic  
42 fibrosis gene which in combination with another similar gene  
43 results in the chronic hereditary disease cystic fibrosis.
- 44 dd. "Service dog" means any dog individually trained to the  
45 requirements of a person with a disability including, but not limited  
46 to minimal protection work, rescue work, pulling a wheelchair or  
47 retrieving dropped items. This term shall include a "seizure dog"



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

1 (a) the existence of significant facilities and services  
2 specifically designed to meet the physical or social needs of older  
3 persons, or if the provision of such facilities and services is not  
4 practicable, that such housing is necessary to provide important  
5 housing opportunities for older persons; and

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

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

11 Housing shall not fail to meet the requirements for housing for  
12 older persons by reason of: persons residing in such housing as of  
13 September 13, 1988 not meeting the age requirements of this  
14 subsection, provided that new occupants of such housing meet the  
15 age requirements of this subsection; or unoccupied units, provided  
16 that such units are reserved for occupancy by persons who meet the  
17 age requirements of this subsection.

18 nn. "Genetic characteristic" means any inherited gene or  
19 chromosome, or alteration thereof, that is scientifically or medically  
20 believed to predispose an individual to a disease, disorder or  
21 syndrome, or to be associated with a statistically significant  
22 increased risk of development of a disease, disorder or syndrome.

23 oo. "Genetic information" means the information about genes,  
24 gene products or inherited characteristics that may derive from an  
25 individual or family member.

26 pp. "Genetic test" means a test for determining the presence or  
27 absence of an inherited genetic characteristic in an individual,  
28 including tests of nucleic acids such as DNA, RNA and  
29 mitochondrial DNA, chromosomes or proteins in order to identify a  
30 predisposing genetic characteristic.

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

33 rr. "Gender identity or expression" means having or being  
34 perceived as having a gender related identity or expression whether  
35 or not stereotypically associated with a person's assigned sex at  
36 birth.

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

40 tt. "Premium wages" means additional remuneration for night,  
41 weekend or holiday work, or for standby or irregular duty.

42 uu. "Premium benefit" means an employment benefit, such as  
43 seniority, group life insurance, health insurance, disability  
44 insurance, sick leave, annual leave, or an educational or pension  
45 benefit that is greater than the employment benefit due the

1 employee for an equivalent period of work performed during the  
2 regular work schedule of the employee.

3 (cf: P.L.2009, c.205, s.1)

4

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

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

1 if that employee is entitled to an immediate non-forfeitable annual  
2 retirement benefit from a pension, profit sharing, savings or  
3 deferred retirement plan, or any combination of those plans, of the  
4 employer of that employee which equals in the aggregate at least  
5 \$27,000.00; and provided further that an employer may restrict  
6 employment or unpaid internships to citizens of the United States  
7 where such restriction is required by federal law or is otherwise  
8 necessary to protect the national interest.

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

36 c. For any employer or employment agency to print or circulate  
37 or cause to be printed or circulated any statement, advertisement or  
38 publication, or to use any form of application for employment or  
39 unpaid internship, or to make an inquiry in connection with a  
40 prospective employment or unpaid internship, which expresses,  
41 directly or indirectly, any limitation, specification or discrimination  
42 as to race, creed, color, national origin, ancestry, age, marital status,  
43 civil union status, domestic partnership status, affectional or sexual  
44 orientation, gender identity or expression, disability, nationality or  
45 sex or liability of any applicant for employment for service in the  
46 Armed Forces of the United States, or any intent to make any such

1 limitation, specification or discrimination, unless based upon a bona  
2 fide occupational qualification.

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

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

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

1 basis of sex; provided further, that the foregoing limitation shall not  
2 apply to any restaurant as defined in R.S.33:1-1 or place where  
3 alcoholic beverages are served.

4 (2) Notwithstanding the definition of "a place of public  
5 accommodation" as set forth in subsection l. 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, sex, gender  
15 identity, or expression, affectional or sexual orientation, disability  
16 or nationality of such person.

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

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

30 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
31 to deny to or withhold from any person or group of persons any real  
32 property or part or portion thereof because of race, creed, color,  
33 national origin, ancestry, marital status, civil union status, domestic  
34 partnership status, sex, gender identity or expression, affectional or  
35 sexual orientation, familial status, disability, nationality, or source  
36 of lawful income used for rental or mortgage payments;

37 (2) To discriminate against any person or group of persons  
38 because of race, creed, color, national origin, ancestry, marital  
39 status, civil union status, domestic partnership status, sex, gender  
40 identity or expression, affectional or sexual orientation, familial  
41 status, disability, nationality or source of lawful income used for  
42 rental or mortgage payments in the terms, conditions or privileges  
43 of the sale, rental or lease of any real property or part or portion  
44 thereof or in the furnishing of facilities or services in connection  
45 therewith;

46 (3) To print, publish, circulate, issue, display, post or mail, or  
47 cause to be printed, published, circulated, issued, displayed, posted

1 or mailed any statement, advertisement, publication or sign, or to  
2 use any form of application for the purchase, rental, lease,  
3 assignment or sublease of any real property or part or portion  
4 thereof, or to make any record or inquiry in connection with the  
5 prospective purchase, rental, lease, assignment, or sublease of any  
6 real property, or part or portion thereof which expresses, directly or  
7 indirectly, any limitation, specification or discrimination as to race,  
8 creed, color, national origin, ancestry, marital status, civil union  
9 status, domestic partnership status, sex, gender identity, or  
10 expression, affectional or sexual orientation, familial status,  
11 disability, nationality, or source of lawful income used for rental or  
12 mortgage payments, or any intent to make any such limitation,  
13 specification or discrimination, and the production of any such  
14 statement, advertisement, publicity, sign, form of application,  
15 record, or inquiry purporting to be made by any such person shall  
16 be presumptive evidence in any action that the same was authorized  
17 by such person; provided, however, that nothing contained in this  
18 subsection shall be construed to bar any person from refusing to  
19 sell, rent, lease, assign or sublease or from advertising or recording  
20 a qualification as to sex for any room, apartment, flat in a dwelling  
21 or residential facility which is planned exclusively for and occupied  
22 by individuals of one sex to any individual of the exclusively  
23 opposite sex on the basis of sex provided individuals shall be  
24 qualified based on their gender identity or expression;

25 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
26 to deny to or withhold from any person or group of persons any real  
27 property or part or portion thereof because of the source of any  
28 lawful income received by the person or the source of any lawful  
29 rent payment to be paid for the real property; or

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

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

39 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
40 sale, rental, lease, assignment, or sublease any real property or part  
41 or portion thereof to any person or group of persons or to refuse to  
42 negotiate for the sale, rental, lease, assignment, or sublease of any  
43 real property or part or portion thereof to any person or group of  
44 persons because of race, creed, color, national origin, ancestry,  
45 marital status, civil union status, domestic partnership status,  
46 familial status, sex, gender identity or expression, affectional or  
47 sexual orientation, disability, nationality, or source of lawful

1 income used for rental or mortgage payments, or to represent that  
2 any real property or portion thereof is not available for inspection,  
3 sale, rental, lease, assignment, or sublease when in fact it is so  
4 available, or otherwise to deny or withhold any real property or any  
5 part or portion of facilities thereof to or from any person or group of  
6 persons because of race, creed, color, national origin, ancestry,  
7 marital status, civil union status, domestic partnership status,  
8 familial status, sex, gender identity or expression, affectional or  
9 sexual orientation, disability or nationality;

10 (2) To discriminate against any person because of race, creed,  
11 color, national origin, ancestry, marital status, civil union status,  
12 domestic partnership status, familial status, sex, gender identity or  
13 expression, affectional or sexual orientation, disability, nationality,  
14 or source of lawful income used for rental or mortgage payments in  
15 the terms, conditions or privileges of the sale, rental, lease,  
16 assignment or sublease of any real property or part or portion  
17 thereof or in the furnishing of facilities or services in connection  
18 therewith;

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

45 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
46 to deny to or withhold from any person or group of persons any real  
47 property or part or portion thereof because of the source of any



- 1 lawful income received by the person or the source of any lawful  
2 rent payment to be paid for the real property; or
- 3 (5) To refuse to rent or lease any real property to another person  
4 because that person's family includes children under 18 years of  
5 age, or to make an agreement, rental or lease of any real property  
6 which provides that the agreement, rental or lease shall be rendered  
7 null and void upon the birth of a child. This paragraph shall not  
8 apply to housing for older persons as defined in subsection mm. of  
9 section 5 of P.L.1945, c.169 (C.10:5-5).
- 10 i. For any person, bank, banking organization, mortgage  
11 company, insurance company or other financial institution, lender  
12 or credit institution involved in the making or purchasing of any  
13 loan or extension of credit, for whatever purpose, whether secured  
14 by residential real estate or not, including but not limited to  
15 financial assistance for the purchase, acquisition, construction,  
16 rehabilitation, repair or maintenance of any real property or part or  
17 portion thereof or any agent or employee thereof:
- 18 (1) To discriminate against any person or group of persons  
19 because of race, creed, color, national origin, ancestry, marital  
20 status, civil union status, domestic partnership status, sex, gender  
21 identity or expression, affectional or sexual orientation, disability,  
22 familial status or nationality, in the granting, withholding,  
23 extending, modifying, renewing, or purchasing, or in the fixing of  
24 the rates, terms, conditions or provisions of any such loan,  
25 extension of credit or financial assistance or purchase thereof or in  
26 the extension of services in connection therewith;
- 27 (2) To use any form of application for such loan, extension of  
28 credit or financial assistance or to make record or inquiry in  
29 connection with applications for any such loan, extension of credit  
30 or financial assistance which expresses, directly or indirectly, any  
31 limitation, specification or discrimination as to race, creed, color,  
32 national origin, ancestry, marital status, civil union status, domestic  
33 partnership status, sex, gender identity or expression, affectional or  
34 sexual orientation, disability, familial status or nationality or any  
35 intent to make any such limitation, specification or discrimination;  
36 unless otherwise required by law or regulation to retain or use such  
37 information;
- 38 (3) (Deleted by amendment, P.L.2003, c.180).
- 39 (4) To discriminate against any person or group of persons  
40 because of the source of any lawful income received by the person  
41 or the source of any lawful rent payment to be paid for the real  
42 property; or
- 43 (5) To discriminate against any person or group of persons  
44 because that person's family includes children under 18 years of  
45 age, or to make an agreement or mortgage which provides that the  
46 agreement or mortgage shall be rendered null and void upon the  
47 birth of a child. This paragraph shall not apply to housing for older

1 persons as defined in subsection mm. of section 5 of P.L.1945,  
2 c.169 (C.10:5-5).

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

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

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

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

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

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

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

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

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

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

1 identity or expression, affectional or sexual orientation, disability or  
2 nationality.

3 p. Nothing in the provisions of this section shall affect the  
4 ability of an employer to require employees and unpaid interns to  
5 adhere to reasonable workplace appearance, grooming and dress  
6 standards not precluded by other provisions of State or federal law,  
7 except that an employer shall allow an employee or unpaid intern to  
8 appear, groom and dress consistent with the employee's or intern's  
9 gender identity or expression.

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

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

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

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

1 leave with pay ordinarily granted, other than sick leave, and any  
2 such absence not so made up or charged, may be treated by the  
3 employer of that person as leave taken without pay.

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

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

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

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

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

23 (c) An accommodation shall be considered to constitute an undue  
24 hardship if it will result in the inability of an employee or unpaid  
25 intern to perform the essential functions of the position in which he  
26 or she is employed or engaged as an intern.

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

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

37 r. For any employer to take reprisals against any employee or  
38 unpaid intern for requesting from any other employee or former  
39 employee, or any other unpaid intern or former unpaid intern, of the  
40 employer information regarding the job title, occupational category,  
41 and rate of compensation, including benefits, of any employee or  
42 former employee of the employer, or the gender, race, ethnicity,  
43 military status, or national origin of any employee or former  
44 employee, or any unpaid intern or former unpaid intern, of the  
45 employer, regardless of whether the request was responded to, if the  
46 purpose of the request for the information was to assist in  
47 investigating the possibility of the occurrence of, or in taking of

1 legal action regarding, potential discriminatory treatment, including  
2 if applicable, treatment concerning pay, compensation, bonuses,  
3 other compensation, or benefits. Nothing in this subsection shall be  
4 construed to require an employee or unpaid intern to disclose such  
5 information about the employee or unpaid intern herself to any  
6 other employee or former employee, or unpaid intern or former  
7 unpaid intern, of the employer or to any authorized representative  
8 **【of the other employee or former employee】** thereof.

9 (cf: P.L.2013, c.154, s.1)

10

11 8. Section 1 of P.L.2001, c.385 (C.10:5-12.6) is amended to  
12 read as follows:

13 1. No employer, public or private, shall discharge or  
14 discriminate against an employee or unpaid intern in compensation  
15 or in terms, conditions or privileges of employment or unpaid  
16 internship for displaying the American flag on the employee's or  
17 intern's person or work station, provided the display does not  
18 substantially and materially interfere with the employee's or intern's  
19 job duties. An employer who discharges or discriminates against an  
20 employee or unpaid intern as described in this section shall be liable  
21 to the employee or unpaid intern for damages caused by the  
22 discharge or discrimination, including punitive damages, and for  
23 reasonable attorney's fees as part of the costs of any action for  
24 damages. If the court determines that the action for damages was  
25 brought without substantial justification, the court may award costs  
26 and reasonable attorney's fees to the employer.

27 (cf: P.L.2001, c.385, s.1)

28

29 9. Section 1 of P.L.1986, c.105 (C.34:19-1) is amended to read  
30 as follows:

31 1. This act shall be known and may be cited as the  
32 "Conscientious Employee and Intern Protection Act."

33 (cf: P.L.1986, c.105, s.1)

34

35 10. Section 2 of P.L.1986, c.105 (C.34:19-2) is amended to read  
36 as follows:

37 2. As used in this act:

38 a. "Employer" means any individual, partnership, association,  
39 corporation or any person or group of persons acting directly or  
40 indirectly on behalf of or in the interest of an employer with the  
41 employer's consent and shall include all branches of State  
42 Government, or the several counties and municipalities thereof, or  
43 any other political subdivision of the State, or a school district, or  
44 any special district, or any authority, commission, or board or any  
45 other agency or instrumentality thereof.

- 1       b. (1) "Employee" means any individual who performs services  
2 for and under the control and direction of an employer for wages or  
3 other remuneration.
- 4       (2) "Unpaid intern" means an individual who performs services  
5 for an employer for the purpose of training, under the following  
6 circumstances:
- 7       (a) the employer is not committed to hiring the individual as an  
8 employee or in any other compensated capacity at the conclusion of  
9 the training period;
- 10       (b) the employer and the individual agree in writing that the  
11 individual is not entitled to any wages or other remuneration for the  
12 work performed; and
- 13       (c) any work performed by the individual: (i) supplements  
14 employer training given in an educational environment intended to  
15 enhance the employability of the individual; (ii) provides  
16 experience for the benefit of the individual; and (iii) does not  
17 displace employees of the employer.
- 18       c. "Public body" means:
- 19       (1) the United States Congress, and State legislature, or any  
20 popularly-elected local governmental body, or any member or  
21 employee thereof;
- 22       (2) any federal, State, or local judiciary, or any member or  
23 employee thereof, or any grand or petit jury;
- 24       (3) any federal, State, or local regulatory, administrative, or  
25 public agency or authority, or instrumentality thereof;
- 26       (4) any federal, State, or local law enforcement agency,  
27 prosecutorial office, or police or peace officer;
- 28       (5) any federal, State or local department of an executive branch  
29 of government; or
- 30       (6) any division, board, bureau, office, committee or commission  
31 of any of the public bodies described in the above paragraphs of this  
32 subsection.
- 33       d. "Supervisor" means any individual with an employer's  
34 organization who has the authority to direct and control the work  
35 performance of the affected employee or unpaid intern, who has  
36 authority to take corrective action regarding the violation of the  
37 law, rule or regulation of which the employee or unpaid intern  
38 complains, or who has been designated by the employer on the  
39 notice required under section 7 of this act.
- 40       e. "Retaliatory action" means the discharge, suspension or  
41 demotion of an employee or unpaid intern, or other adverse  
42 employment action taken against an employee or unpaid intern in  
43 the terms and conditions of the employment or unpaid internship.
- 44       f. "Improper quality of patient care" means, with respect to  
45 patient care, any practice, procedure, action or failure to act of an  
46 employer that is a health care provider which violates any law or

1 any rule, regulation or declaratory ruling adopted pursuant to law,  
2 or any professional code of ethics.  
3 (cf: P.L.1997, c.98, s.1)  
4

5 11. Section 3 of P.L.1986, c.105 (C.34:19-3) is amended to read  
6 as follows:

7 3. An employer shall not take any retaliatory action against an  
8 employee or unpaid intern because the employee or unpaid intern  
9 does any of the following:

10 a. Discloses, or threatens to disclose to a supervisor or to a  
11 public body an activity, policy or practice of the employer, or  
12 another employer, with whom there is a business relationship, that  
13 the employee or unpaid intern reasonably believes:

14 (1) is in violation of a law, or a rule or regulation promulgated  
15 pursuant to law, including any violation involving deception of, or  
16 misrepresentation to, any shareholder, investor, client, patient,  
17 customer, employee, former employee, unpaid intern, former unpaid  
18 intern, retiree or pensioner of the employer or any governmental  
19 entity, or, in the case of an employee or unpaid intern who is a  
20 licensed or certified health care professional, reasonably believes  
21 constitutes improper quality of patient care; or

22 (2) is fraudulent or criminal, including any activity, policy or  
23 practice of deception or misrepresentation which the employee or  
24 unpaid intern reasonably believes may defraud any shareholder,  
25 investor, client, patient, customer, employee, former employee,  
26 unpaid intern, former unpaid intern, retiree or pensioner of the  
27 employer or any governmental entity;

28 b. Provides information to, or testifies before, any public body  
29 conducting an investigation, hearing or inquiry into any violation of  
30 law, or a rule or regulation promulgated pursuant to law by the  
31 employer, or another employer, with whom there is a business  
32 relationship, including any violation involving deception of, or  
33 misrepresentation to, any shareholder, investor, client, patient,  
34 customer, employee, former employee, unpaid intern, former unpaid  
35 intern, retiree or pensioner of the employer or any governmental  
36 entity, or, in the case of an employee or unpaid intern who is a  
37 licensed or certified health care professional, provides information  
38 to, or testifies before, any public body conducting an investigation,  
39 hearing or inquiry into the quality of patient care; or

40 c. Objects to, or refuses to participate in any activity, policy or  
41 practice which the employee or unpaid intern reasonably believes:

42 (1) is in violation of a law, or a rule or regulation promulgated  
43 pursuant to law, including any violation involving deception of, or  
44 misrepresentation to, any shareholder, investor, client, patient,  
45 customer, employee, former employee, unpaid intern, former unpaid  
46 intern, retiree or pensioner of the employer or any governmental  
47 entity, or, if the employee or unpaid intern is a licensed or certified



1 health care professional, constitutes improper quality of patient  
2 care;

3 (2) is fraudulent or criminal, including any activity, policy or  
4 practice of deception or misrepresentation which the employee or  
5 unpaid intern reasonably believes may defraud any shareholder,  
6 investor, client, patient, customer, employee, former employee,  
7 unpaid intern, former unpaid intern, retiree or pensioner of the  
8 employer or any governmental entity; or

9 (3) is incompatible with a clear mandate of public policy  
10 concerning the public health, safety or welfare or protection of the  
11 environment.

12 (cf: P.L.2005, c.329, s.1)

13

14 12. Section 4 of P.L.1986, c.105 (C.34:19-4) is amended to read  
15 as follows:

16 4. The protection against retaliatory action provided by this act  
17 pertaining to disclosure to a public body shall not apply to an  
18 employee or unpaid intern who makes a disclosure to a public body  
19 unless the employee or unpaid intern has brought the activity,  
20 policy or practice in violation of a law, or a rule or regulation  
21 promulgated pursuant to law to the attention of a supervisor of the  
22 employee or unpaid intern by written notice and has afforded the  
23 employer a reasonable opportunity to correct the activity, policy or  
24 practice. Disclosure shall not be required where the employee or  
25 unpaid intern is reasonably certain that the activity, policy or  
26 practice is known to one or more supervisors of the employer or  
27 where the employee or unpaid intern reasonably fears physical harm  
28 as a result of the disclosure provided, however, that the situation is  
29 emergency in nature.

30 (cf: P.L.1986, c.105, s.4)

31

32 13. Section 5 of P.L.1986, c.105 (C.34:19-5) is amended to read  
33 as follows:

34 5. Upon a violation of any of the provisions of this act, an  
35 aggrieved employee or former employee, or unpaid intern or former  
36 unpaid intern may, within one year, institute a civil action in a court  
37 of competent jurisdiction. Upon the application of any party, a jury  
38 trial shall be directed to try the validity of any claim under this act  
39 specified in the suit. All remedies available in common law tort  
40 actions shall be available to prevailing plaintiffs. These remedies  
41 are in addition to any legal or equitable relief provided by this act or  
42 any other statute. The court shall also order, where appropriate and  
43 to the fullest extent possible:

44 a. An injunction to restrain any violation of this act which is  
45 continuing at the time that the court issues its order;

- 1       b. The reinstatement of the employee or unpaid intern to the  
2 same position held before the retaliatory action, or to an equivalent  
3 position;  
4       c. The reinstatement of full fringe benefits and seniority rights;  
5       d. The compensation for all lost wages, benefits and other  
6 remuneration; and  
7       e. The payment by the employer of reasonable costs, and  
8 attorney's fees.

9       In addition, the court or jury may order: the assessment of a civil  
10 fine of not more than \$10,000 for the first violation of the act and  
11 not more than \$20,000 for each subsequent violation, which shall be  
12 paid to the State Treasurer for deposit in the General Fund; punitive  
13 damages; or both a civil fine and punitive damages. In determining  
14 the amount of punitive damages, the court or jury shall consider not  
15 only the amount of compensatory damages awarded to the  
16 employee or unpaid intern, but also the amount of all damages  
17 caused to shareholders, investors, clients, patients, customers,  
18 employees, former employees, unpaid interns, former unpaid  
19 interns, retirees or pensioners of the employer, or to the public or  
20 any governmental entity, by the activities, policies or practices of  
21 the employer which the employee or unpaid intern disclosed,  
22 threatened to disclose, provided testimony regarding, objected to, or  
23 refused to participate in.

24 (cf: P.L.2005, c.329, s.2)

25

26       14. Section 6 of P.L.1986, c.105 (C.34:19-6) is amended to read  
27 as follows:

28       6. A court, upon notice of motion in accordance with the Rules  
29 Governing the Courts of the State of New Jersey, may also order  
30 that reasonable attorneys' fees and court costs be awarded to an  
31 employer if the court determines that an action brought by an  
32 employee or unpaid intern under this act was without basis in law or  
33 in fact. However, an employee or unpaid intern shall not be  
34 assessed attorneys' fees under this section if, after exercising  
35 reasonable and diligent efforts after filing a suit, the employee or  
36 unpaid intern files a voluntary dismissal concerning the employer,  
37 within a reasonable time after determining that the employer would  
38 not be found to be liable for damages.

39 (cf: P.L.1986, c.105, s. 6)

40

41       15. Section 7 of P.L.1986, c.105 (C.34:19-7) is amended to read  
42 as follows:

43       7. An employer shall conspicuously display, **【and】** annually  
44 distribute to all employees, and distribute to all unpaid interns at the  
45 time of their initial engagement in an internship, written or  
46 electronic notices of its employees' and unpaid interns' protections,  
47 obligations, rights and procedures under this act, and use other

1 appropriate means to keep its employees and unpaid interns so  
2 informed. Each notice posted or distributed pursuant to this section  
3 shall be in English, Spanish and at the employer's discretion, any  
4 other language spoken by the majority of the employer's employees  
5 and unpaid interns. The notice shall include the name of the person  
6 or persons the employer has designated to receive written  
7 notifications pursuant to section 4 of this act. The Commissioner of  
8 Labor and Workforce Development shall make available to  
9 employers a text of a notice fulfilling the requirements of this  
10 section and provide copies of the notice suitable for display and  
11 distribution to any employers who request the copies, charging them  
12 as much as is needed to pay the costs of the department. The  
13 commissioner shall also provide notices printed in a language other  
14 than English and Spanish, at the request of the employer.

15 The requirement that an employer **【annually】** distribute to all  
16 employees and unpaid interns written notices of the protections,  
17 obligations, rights and procedures provided to the employees and  
18 unpaid interns by the provisions of P.L.1986, c.105 (C.34:19-1 et  
19 seq.) shall not apply to any employer who has less than 10  
20 employees and unpaid interns.  
21 (cf: P.L.2004, c.148, s.1)  
22

23 16. Section 8 of P.L.1986, c.105 (C.34:19-8) is amended to read  
24 as follows:

25 8. Nothing in this act shall be deemed to diminish the rights,  
26 privileges, or remedies of any employee or unpaid intern under any  
27 other federal or State law or regulation or under any collective  
28 bargaining agreement or employment contract; except that the  
29 institution of an action in accordance with this act shall be deemed a  
30 waiver of the rights and remedies available under any other  
31 contract, collective bargaining agreement, State law, rule or  
32 regulation or under the common law.  
33 (cf: P.L.1986, c.105, s.8)  
34

35 17. Section 1 of P.L.2006, c.53 (C.34:19-9) is amended to read  
36 as follows:

37 1. For the purposes of this act:

38 "Employer" means a person engaged in business who has  
39 employees or unpaid interns, including the State and any political  
40 subdivision or other instrumentality of the State.

41 "Employee" means any person engaged in service to an employer  
42 for wages, salary or other compensation.

43 "Political matters" include political party affiliation and  
44 decisions to join or not join or participate in any lawful political,  
45 social, or community organization or activity.

46 "Unpaid intern" means an unpaid intern as defined in subsection  
47 b. of section 2 of P.L.1986, c.105 (C.34:19-2).

1 (cf: P.L.2006, c.53, s.1)

2

3 18. Section 2 of P.L.2006, c.53 (C.34:19-10) is amended to read  
4 as follows:

5 2. No employer or employer's agent, representative or designee  
6 may, except as provided in section 3 of this act, require its  
7 employees or unpaid interns to attend an employer-sponsored  
8 meeting or participate in any communications with the employer or  
9 its agents or representatives, the purpose of which is to  
10 communicate the employer's opinion about religious or political  
11 matters.

12 This act shall not be construed as prohibiting an employer from  
13 permitting its employees or unpaid interns to voluntarily attend  
14 employer-sponsored meetings or providing other communications  
15 to the employees or unpaid interns, if the employer notifies the  
16 employees or unpaid interns that they may refuse to attend the  
17 meetings or accept the communications without penalty.

18 (cf: P.L.2006, c.53, s.2)

19

20 19. Section 3 of P.L.2006, c.53 (C.34:19-11) is amended to read  
21 as follows:

22 3. a. An employer or its agent, representative or designee may  
23 communicate to employees and unpaid interns information about  
24 religious or political matters that the employer is required by law to  
25 communicate, but only to the extent required by law.

26 b. Nothing in this act shall prohibit:

27 (1) A religious organization from requiring its employees or  
28 unpaid interns to attend an employer-sponsored meeting or to  
29 participate in any communications with the employer or its agents  
30 or representatives, the purpose of which is to communicate the  
31 employer's religious beliefs, practices or tenets;

32 (2) A political organization or party from requiring its  
33 employees or unpaid interns to attend an employer-sponsored  
34 meeting or to participate in any communications with the employer  
35 or its agents or representatives, the purpose of which is to  
36 communicate the employer's political tenets or purposes; or

37 (3) An educational institution from requiring a student or  
38 instructor to attend lectures on political or religious matters that are  
39 part of the regular course work at the institution.

40 (cf: P.L.2006, c.53, s.3)

41

42 20. Section 4 of P.L.2006, c.53 (C.34:19-12) is amended to read  
43 as follows:

44 4. No employer or employer's agent, representative or designee  
45 shall discharge, discipline or otherwise penalize or threaten to  
46 discharge, discipline or otherwise penalize any employee or unpaid  
47 intern because the employee or unpaid intern, or a person acting on

1 behalf of the employee or unpaid intern, makes a good faith report,  
2 verbally or in writing, of a violation or suspected violation of this  
3 act.

4 (cf: P.L.2006, c.53, s.4)

5

6 21. Section 5 of P.L.2006, c.53 (C.34:19-13) is amended to read  
7 as follows:

8 5. Any aggrieved employee or unpaid intern may enforce the  
9 provisions of this act by means of a civil action brought no later  
10 than ninety days after the date of the alleged violation in a court of  
11 competent jurisdiction. The court shall award a prevailing  
12 employee or unpaid intern all appropriate relief, including any of  
13 the following which are applicable to the violation:

14 a. A restraining order against any continuing violation;

15 b. The reinstatement of the employee or unpaid intern to the  
16 employee's or unpaid intern's former position or an equivalent  
17 position and the reestablishment of any employee benefits and  
18 seniority rights;

19 c. The payment of any lost wages, benefits or other  
20 remuneration; and

21 d. The payment of reasonable attorneys' fees and costs of the  
22 action.

23 In addition, the court may award the prevailing employee or  
24 unpaid intern punitive damages not greater than treble damages, or  
25 an assessment of a civil fine of not more than \$1,000 for a first  
26 violation of the act and not more than \$5,000 for each subsequent  
27 violation, which shall be paid to the State Treasurer for deposit in  
28 the General Fund.

29 (cf: P.L.2006, c.53, s.5)

30

31 22. Section 6 of P.L.2006, c.53 (C.34:19-14) is amended to read  
32 as follows:

33 6. Nothing in this act shall be construed to limit an employee's or  
34 unpaid intern's right to bring a common law tort cause of action  
35 against an employer, including an action for wrongful termination,  
36 or to diminish or impair the rights of a person under any collective  
37 bargaining agreement.

38 (cf: P.L.2006, c.53, s.6)

39

40 23. This act shall take effect on the first day of the third month  
41 next following enactment, and apply to any violation against an  
42 unpaid intern occurring on or after the effective date.

STATEMENT

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This bill, designated the “New Jersey Intern Protection Act,” provides legal protections and remedies for persons engaged in unpaid internships with employers. It does so by adding unpaid interns to the provisions of the “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.), the “Conscientious Employee Protection Act,” P.L.1986, c.105 (C.34:19-1 et seq.), and P.L.2006, c.53 (C.34:19-9 et seq.), sometimes referred to as the Worker Freedom From Employer Intimidation Act.

Under all three enactments, an unpaid intern would be defined as an individual who performs work for an employer for the purpose of training under the following circumstances:

(1) the employer is not committed to hiring the individual as an employee or in any other compensated capacity at the conclusion of the training period;

(2) the employer and the individual agree in writing that the individual is not entitled to any compensation for the work performed; and

(3) any work performed by the individual: supplements employer training given in an educational environment intended to enhance the employability of the individual; provides experience for the benefit of the individual; and does not displace employees of the employer.

An unpaid intern would not only have recognized and enforceable legal protections from various forms of employer discrimination, retaliatory acts, and intimidation relative to religious and political matters in the workplace, the State would also have the authority, under the “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.), to bring actions against employers. In addition, nothing within the provisions of this bill or the various past legislative acts amended by this bill would prevent an unpaid intern from seeking protections or receiving remedies pursuant to any applicable federal law, other State law, or the common law.