

# ASSEMBLY, No. 4119

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED SEPTEMBER 15, 2016

**Sponsored by:**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman TROY SINGLETON**

**District 7 (Burlington)**

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**District 15 (Hunterdon and Mercer)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

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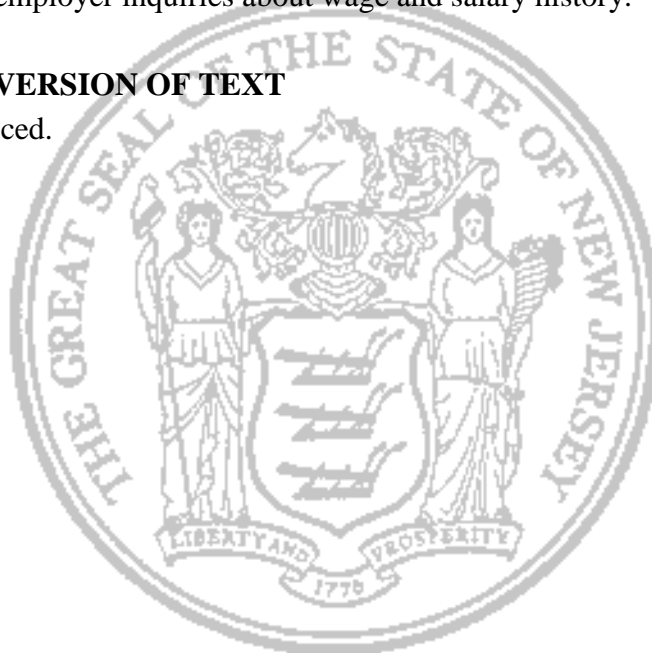
**Assemblyman McKeon**

**SYNOPSIS**

Concerns employer inquiries about wage and salary history.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/14/2016)**

A4119 LAMPITT, BENSON

2

1 AN ACT concerning employer inquiries about wage and salary  
2 history and amending P.L.1945, c.169.

3

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

6

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

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

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

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

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

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

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

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

1 discrimination, unless based upon a bona fide occupational  
2 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,  
15 superintendent, agent, or employee of any place of public  
16 accommodation directly or indirectly to refuse, withhold from or  
17 deny to any person any of the accommodations, advantages,  
18 facilities or privileges thereof, or to discriminate against any person  
19 in the furnishing thereof, or directly or indirectly to publish,  
20 circulate, issue, display, post or mail any written or printed  
21 communication, notice, or advertisement to the effect that any of  
22 the accommodations, advantages, facilities, or privileges of any  
23 such place will be refused, withheld from, or denied to any person  
24 on account of the race, creed, color, national origin, ancestry,  
25 marital status, civil union status, domestic partnership status,  
26 pregnancy, sex, gender identity or expression, affectional or sexual  
27 orientation, disability or nationality of such person, or that the  
28 patronage or custom thereof of any person of any particular race,  
29 creed, color, national origin, ancestry, marital status, civil union  
30 status, domestic partnership status, pregnancy status, sex, gender  
31 identity or expression, affectional or sexual orientation, disability or  
32 nationality is unwelcome, objectionable or not acceptable, desired  
33 or solicited, and the production of any such written or printed  
34 communication, notice or advertisement, purporting to relate to any  
35 such place and to be made by any owner, lessee, proprietor,  
36 superintendent or manager thereof, shall be presumptive evidence in  
37 any action that the same was authorized by such person; provided,  
38 however, that nothing contained herein shall be construed to bar any  
39 place of public accommodation which is in its nature reasonably  
40 restricted exclusively to individuals of one sex, and which shall  
41 include but not be limited to any summer camp, day camp, or resort  
42 camp, bathhouse, dressing room, swimming pool, gymnasium,  
43 comfort station, dispensary, clinic or hospital, or school or  
44 educational institution which is restricted exclusively to individuals  
45 of one sex, provided individuals shall be admitted based on their  
46 gender identity or expression, from refusing, withholding from or  
47 denying to any individual of the opposite sex any of the  
48 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, pregnancy,  
15 sex, gender identity, or expression, affectional or sexual orientation,  
16 disability 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, pregnancy, sex, gender identity or expression,  
35 affectional or sexual orientation, familial status, disability,  
36 nationality, or source of lawful income used for rental or mortgage  
37 payments;

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

47 (3) To print, publish, circulate, issue, display, post or mail, or  
48 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, pregnancy, sex, gender identity,  
10 or 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, pregnancy, sex, gender identity or expression,  
47 affectional or sexual orientation, disability, nationality, or source of  
48 lawful income used for rental or mortgage payments, or to represent

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

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

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

44 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
45 to deny to or withhold from any person or group of persons any real  
46 property or part or portion thereof because of the source of any  
47 lawful income received by the person or the source of any lawful  
48 rent payment to be paid for the real property; or

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

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

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

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

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

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

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



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

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

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

39 m. For any person to:

40 (1) Grant or accept any letter of credit or other document which  
41 evidences the transfer of funds or credit, or enter into any contract  
42 for the exchange of goods or services, where the letter of credit,  
43 contract, or other document contains any provisions requiring any  
44 person to discriminate against or to certify that he, she or it has not  
45 dealt with any other person on the basis of the race, creed, color,  
46 national origin, ancestry, age, pregnancy, sex, gender identity or  
47 expression, affectional or sexual orientation, marital status, civil  
48 union status, domestic partnership status, disability, liability for

1 service in the Armed Forces of the United States, or nationality of  
2 such other person or of such other person's spouse, partners,  
3 members, stockholders, directors, officers, managers,  
4 superintendents, agents, employees, business associates, suppliers,  
5 or customers.

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

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

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

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

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

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

47 p. Nothing in the provisions of this section shall affect the  
48 ability of an employer to require employees to adhere to reasonable

1 workplace appearance, grooming and dress standards not precluded  
2 by other provisions of State or federal law, except that an employer  
3 shall allow an employee to appear, groom and dress consistent with  
4 the employee's gender identity or expression.

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

23 (a) The number of the hours worked by the employee which are  
24 counted towards the accruing of seniority, pension or other benefits;  
25 or

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

28 (2) For an employer to refuse to permit an employee to utilize  
29 leave, as provided for in this subsection q., which is solely used to  
30 accommodate the employee's sincerely held religious observance or  
31 practice. Except where it would cause an employer to incur an  
32 undue hardship, no person shall be required to remain at his place  
33 of employment during any day or days or portion thereof that, as a  
34 requirement of his religion, he observes as his Sabbath or other holy  
35 day, including a reasonable time prior and subsequent thereto for  
36 travel between his place of employment and his home; provided that  
37 any such absence from work shall, wherever practicable in the  
38 reasonable judgment of the employer, be made up by an equivalent  
39 amount of time and work at some other mutually convenient time,  
40 or shall be charged against any leave with pay ordinarily granted,  
41 other than sick leave, and any such absence not so made up or  
42 charged, may be treated by the employer of that person as leave  
43 taken without pay.

44 (3) (a) For purposes of this subsection q., "undue hardship"  
45 means an accommodation requiring unreasonable expense or  
46 difficulty, unreasonable interference with the safe or efficient  
47 operation of the workplace or a violation of a bona fide seniority

1 system or a violation of any provision of a bona fide collective  
2 bargaining agreement.

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

5 (i) The identifiable cost of the accommodation, including the  
6 costs of loss of productivity and of retaining or hiring employees or  
7 transferring employees from one facility to another, in relation to  
8 the size and operating cost of the employer.

9 (ii) The number of individuals who will need the particular  
10 accommodation for a sincerely held religious observance or  
11 practice.

12 (iii) For an employer with multiple facilities, the degree to which  
13 the geographic separateness or administrative or fiscal relationship  
14 of the facilities will make the accommodation more difficult or  
15 expensive.

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

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

24 (ii) This subsection q. shall not apply where the uniform  
25 application of terms and conditions of attendance to employees is  
26 essential to prevent undue hardship to the employer. The burden of  
27 proof regarding the applicability of this subparagraph (d) shall be  
28 upon the employer.

29 r. (1) For any employer to take reprisals against any employee  
30 for requesting from any other employee or former employee of the  
31 employer information regarding the job title, occupational category,  
32 and rate of compensation, including benefits, of any employee or  
33 former employee of the employer, or the gender, race, ethnicity,  
34 military status, or national origin of any employee or former  
35 employee of the employer, regardless of whether the request was  
36 responded to, if the purpose of the request for the information was  
37 to assist in investigating the possibility of the occurrence of, or in  
38 taking of legal action regarding, potential discriminatory treatment  
39 concerning pay, compensation, bonuses, other compensation, or  
40 benefits. Nothing in this subsection shall be construed to require an  
41 employee to disclose such information about the employee herself  
42 to any other employee or former employee of the employer or to  
43 any authorized representative of the other employee or former  
44 employee.

45 (2) For any employer to seek the wage or salary history of a  
46 prospective employee, or require, as a condition of employment,  
47 that an employee disclose information about either the employee's  
48 own wages, including benefits or other compensation, or about any

1 other employee's wages; and for any employer to require that a  
2 prospective employee's prior wage or salary history meet any  
3 minimum or maximum criteria as a condition of being interviewed,  
4 or as a condition of continuing to be considered for an offer of  
5 employment. Nothing in this subsection shall be construed to  
6 prohibit a prospective employee from voluntarily disclosing wage  
7 or salary history information, except that an employer may not  
8 coerce the prospective employee to disclose information about the  
9 employee's wage or salary history. An employer may only confirm,  
10 or permit the prospective employee to confirm, the wage or salary  
11 history information after making an offer of employment to the  
12 prospective employee. The employer shall not take retaliatory  
13 action against an employee or prospective employee based upon  
14 prior wage or salary history or because the employee or prospective  
15 employee has opposed any act or practice made unlawful by this  
16 subsection.

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

42 For the purposes of this section "pregnancy" means pregnancy,  
43 childbirth, or medical conditions related to pregnancy or childbirth,  
44 including recovery from childbirth.

45 For the purposes of this subsection, in determining whether an  
46 accommodation would impose undue hardship on the operation of  
47 an employer's business, the factors to be considered include: the  
48 overall size of the employer's business with respect to the number

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

9 (cf: P.L.2013, c.220, s.2)

10

11 2. This act shall take effect immediately.

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#### STATEMENT

15

16 This bill amends the "Law Against Discrimination," P.L.1945,  
17 c.169 (C.10:5-1 et seq.), to strengthen protections against  
18 employment discrimination and thereby promote equal pay for  
19 women by prohibiting any employer from:

20 1. Seeking the wage or salary history of a prospective  
21 employee;

22 2. Requiring, as a condition of employment, that an employee  
23 disclose information about either the employee's own wages,  
24 including benefits or other compensation, or about any other  
25 employee's wages;

26 3. Requiring that a prospective employee's prior wage or salary  
27 history meet any minimum or maximum criteria as a condition of  
28 being interviewed, or as a condition of continuing to be considered  
29 for an offer of employment; or

30 4. Taking retaliatory action against an employee or prospective  
31 employee based upon prior wage or salary history or because the  
32 employee or prospective employee has opposed any act or practice  
33 made unlawful by the bill.

34 The bill is not intended to prohibit a prospective employee from  
35 voluntarily disclosing wage or salary history information, except  
36 that the bill prohibits an employer from coercing the prospective  
37 employee to disclose information about the employee's wage or  
38 salary history. The bill provides that an employer may only  
39 confirm, or permit the prospective employee to confirm, the wage  
40 or salary history information after making an offer of employment  
41 to the prospective employee.