

SENATE, No. 3262

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

Sponsored by:
Senator LORETTA WEINBERG
District 37 (Bergen)

SYNOPSIS

Concerns unlawful discrimination and harassment.

CURRENT VERSION OF TEXT

As introduced.

WITHDRAWN



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

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

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

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

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

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

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

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

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

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

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

44 (7) a prohibition on retaliation against those who disclose,

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 report, participate in an investigation of, or otherwise challenge
2 discrimination or harassment;

3 (8) examples of retaliatory behaviors prohibited by the policy;

4 (9) a description of potential consequences for violating the
5 policy; and

6 (10) a statement of the employer's commitment to conducting
7 prompt, thorough, and impartial investigations of complaints of
8 such discrimination, harassment, or retaliation.

9 c. All employers shall disseminate the policy required in
10 subsection b. of this section at least once annually to all employees,
11 and to each employee:

12 (1) at the beginning of employment;

13 (2) who complains internally about a violation of the policy, at
14 the time the complaint is made;

15 (3) who is interviewed by the employer or the employer's
16 designee in connection with any investigation of any complaint
17 about a violation of the policy, prior to or at the time of the
18 interview; and

19 (4) whenever any updates to the policy are made.

20 d. All employers shall review the policy at least annually to
21 ensure that it complies with this section and other applicable laws
22 and regulations.

23 e. All employers shall make the policy available in English,
24 Spanish and any language spoken by an employee who does not
25 speak English as the employee's primary language and who has a
26 limited ability or no ability to read, speak, write, or understand
27 English.

28 f. In addition to the requirements in subsections b., c., d., and
29 e. of this section, employers with 50 or more employees shall:

30 (1) in addition to the content requirements outlined in
31 subsection b. of this section, customize their policy to their specific
32 workplace and industry by, at a minimum, including:

33 (a) multiple channels through which an employee may report
34 unlawful discrimination or harassment; and

35 (b) a general description of the process by which the employer
36 will conduct prompt, thorough, and impartial investigations and
37 respond to complaints regarding such discrimination or harassment.

38 (2) In addition to the dissemination requirements outlined in
39 subsection c. of this section:

40 (a) post the policy in a prominent location on the employer's
41 website, provided, however, that nothing in this subsection shall
42 require an employer to create or maintain a website for the sole
43 purpose of posting the policy thereon; and

44 (b) disseminate the policy to any employee upon that
45 employee's promotion.

46 (3) In addition to the translation requirements outlined in
47 subsection e. of this section, translate the nondiscrimination policy
48 required by subsection b. of this section into any language

1 identified by an employee as their primary language, if the
2 employee does not speak English as their primary language and has
3 a limited ability or no ability to read, speak, write, or understand
4 English.

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

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

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

27
28 2. (New section) Mandatory workplace training on unlawful
29 discrimination and harassment, including sexual harassment.

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

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

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

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

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

5 (1) in English; and

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

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

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

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

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

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

41

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

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

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

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

11 (1) the total number of complaints filed;

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

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

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

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

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

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

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

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

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

3

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

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

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

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

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

17

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

29

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

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

1 question or that】 the person in the service of the State, or of any
2 county or municipality thereof, is unable to adequately perform the
3 person's duties. A contract of tenure or similar arrangement
4 providing for tenure shall not bar a public employer from showing
5 that 【a retirement age bears a manifest relationship to the
6 employment in question or that】 the person in the service of the
7 State, or of any county or municipality thereof, is unable to
8 adequately perform the person's duties. A person in the employ of
9 the State, or of any county or municipality thereof, who is required
10 to retire upon the attainment of a particular age in violation of this
11 section shall be entitled to reinstatement with back pay and interest,
12 and any remedy available for violations of P.L.1945, c.169 (C.10:5-
13 1 et seq.).
14 (cf: P.L.1999, c.380, s.15)
15

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

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

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

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

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

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

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

45 f. “Employee” 【does not include any individual employed in
46 the domestic service of any person】 includes all individuals
47 employed by an employer, without regard to whether the individual,

1 including an intern or independent contractor, performs services in
2 exchange for a salary or wage, and regardless of whether the
3 individual owns shares of stocks in the employer; provided,
4 however, that nothing in this subsection shall be construed to alter
5 the definition of employee under any other law or regulation other
6 than for purposes of P.L.1945, c.169 (C.10:5-1 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 yy. “Domestic work” means services related to the care of
31 persons in private residences or maintenance of private residences
32 or their premises, including, but not limited to, services performed
33 by a nanny, an au pair other than a person participating as an au pair
34 in the U.S. Department of State’s Exchange Visitor Program
35 governed by 22 C.F.R. 62.31, a babysitter, a house cleaner, a
36 housekeeper, a maid, a caretaker, a home care worker, a cook, a
37 chef, a butler, a gardener, or a household manager; except that
38 “domestic work” shall not include:

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

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

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

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

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

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

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

6 (cf: P.L.2019, c.436, s.2)

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

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

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

1 or a high policy-making position, if that employee is entitled to an
2 immediate non-forfeitable annual retirement benefit from a pension,
3 profit sharing, savings or deferred retirement plan, or any
4 combination of those plans, of the employer of that employee which
5 equals in the aggregate at least \$27,000.00; and provided further
6 that an employer may restrict employment to citizens of the United
7 States where such restriction is required by federal law or is
8 otherwise necessary to protect the national interest; and provided
9 further that no provision of this section shall apply to decisions
10 regarding the hiring of individual for the performance of domestic
11 work.

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

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

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

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

43 For purposes of claims regarding sexual or other unlawful
44 harassment brought by an employee who performs domestic work,
45 it shall also be an unlawful employment practice for an employer to
46 allow any family member or member of the employer's household,
47 regardless of age, to engage in sexual harassment or other unlawful
48 harassment based on any other category protected by this

1 subsection, or for an employer to keep or request to keep permanent
2 or continuing possession of the employee's passport or other
3 identifying documents.

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

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

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

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

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

1 contained shall be construed to bar a labor organization from
2 excluding from its apprentice or other training programs any person
3 on the basis of sex in those certain circumstances where sex is a
4 bona fide occupational qualification reasonably necessary to the
5 normal operation of the particular apprentice or other training
6 program.

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

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

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

42 f. (1) For any owner, lessee, proprietor, manager,
43 superintendent, agent, or employee of any place of public
44 accommodation directly or indirectly to refuse, withhold from or
45 deny to any person any of the accommodations, advantages,
46 facilities or privileges thereof, or to discriminate against any person
47 in the furnishing thereof, or to subject any individual to sexual
48 harassment or other unlawful harassment, or directly or indirectly to

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

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

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

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

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

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

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

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

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

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

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

27 (6) To subject any individual to sexual harassment or other
28 unlawful harassment.

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

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

1 gender identity or expression, affectional or sexual orientation,
2 disability, liability for service in the Armed Forces of the United
3 States, or nationality;

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

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

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

47 (5) To refuse to rent or lease any real property to another person
48 because that person's family includes children under 18 years of

1 age, or to make an agreement, rental or lease of any real property
2 which provides that the agreement, rental or lease shall be rendered
3 null and void upon the birth of a child. This paragraph shall not
4 apply to housing for older persons as defined in subsection mm. of
5 section 5 of P.L.1945, c.169 (C.10:5-5); or

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

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 or
19 breastfeeding, sex, gender identity or expression, affectional or
20 sexual orientation, disability, liability for service in the Armed
21 Forces of the United States, familial status or nationality, in the
22 granting, withholding, extending, modifying, renewing, or
23 purchasing, or in the fixing of the rates, terms, conditions or
24 provisions of any such loan, extension of credit or financial
25 assistance or purchase thereof or in the extension of services in
26 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, pregnancy or breastfeeding, sex, gender identity
34 or expression, affectional or sexual orientation, disability, liability
35 for service in the Armed Forces of the United States, familial status
36 or nationality or any intent to make any such limitation,
37 specification or discrimination; unless otherwise required by law or
38 regulation to retain or use such information;

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

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

44 (5) To discriminate against any person or group of persons
45 because that person's family includes children under 18 years of
46 age, or to make an agreement or mortgage which provides that the
47 agreement or mortgage shall be rendered null and void upon the
48 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, pregnancy or breastfeeding, sex,
16 gender identity or expression, affectional or sexual orientation,
17 disability, liability for service in the Armed Forces of the United
18 States, nationality, or source of lawful income used for rental or
19 mortgage payments of the owners or occupants in the block,
20 neighborhood or area in which the real property is located, and to
21 represent, directly or indirectly, that this change will or may result
22 in undesirable consequences in the block, neighborhood or area in
23 which the real property is located, including, but not limited to the
24 lowering of property values, an increase in criminal or anti-social
25 behavior, or a decline in the quality of schools or other facilities.

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

43 m. For any person to:

44 (1) Grant or accept any letter of credit or other document which
45 evidences the transfer of funds or credit, or enter into any contract
46 for the exchange of goods or services, where the letter of credit,
47 contract, or other document contains any provisions requiring any
48 person to discriminate against or to certify that he, she or it has not

1 dealt with any other person on the basis of the race, creed, color,
2 national origin, ancestry, age, pregnancy or breastfeeding, sex,
3 gender identity or expression, affectional or sexual orientation,
4 marital status, civil union status, domestic partnership status,
5 disability, liability for service in the Armed Forces of the United
6 States, or nationality of such other person or of such other person's
7 family members, partners, members, stockholders, directors,
8 officers, managers, superintendents, agents, employees, business
9 associates, suppliers, or customers.

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

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

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

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

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

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

1 breastfeeding, sex, gender identity or expression, affectional or
2 sexual orientation, disability, liability for service in the Armed
3 Forces of the United States or nationality.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Nothing in this subsection shall be interpreted to preclude
2 employers from engaging interns in unpaid positions or paying
3 interns at a different rate than other staff, provided, however, that if
4 an employer provides compensation to interns, the employer shall
5 not provide compensation to interns who are members of a
6 protected class at a rate less than interns who are not members of
7 the protected class for substantially similar work, when viewed as a
8 composite of skill, effort and responsibility.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall have accrued, except that this right shall be tolled while the
2 division is conducting any investigation or proceedings under this
3 subsection. The failure to file a complaint or otherwise participate
4 in a relevant process created by the employer prior to filing suit in
5 Superior Court shall not bar the complainant from filing suit or
6 receiving a full recovery. In such proceedings:

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

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

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

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

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

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

45 If a jury or court determines that an employer has committed an
46 unlawful employment practice which would lead a reasonable
47 person in the same protected category to find the workplace
48 intolerable or damaging to their health or emotional wellbeing, the

1 jury or court shall determine an employee's voluntary exit from the
2 workplace to be a constructive discharge.

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

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

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

24 (P.L.2019, c.436, s.5)

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

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

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

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

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

42 43 44 STATEMENT

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

1 accommodations, or housing, to sexual harassment or other
2 unlawful harassment.

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

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

9 The bill requires all employers to provide interactive training to
10 all supervisory employees and all other employees regarding the
11 prevention of unlawful discrimination and harassment in the
12 workplace, and sets standards for the training and the
13 responsibilities of supervisors under the bill. Each employer with
14 50 or more employees is required to provide the training in a live,
15 in-person setting where participants can ask questions.

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

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

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

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

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

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

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

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

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

46 The bill extends protections against age discrimination by:

47 1. Deleting the provisions of law permitting a governmental
48 employer to require retirement when an employee attains a

1 particular age if the employer can show “that the retirement age
2 bears a manifest relationship to the employment in question”;

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

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

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

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

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