

10:5-3

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 180
NJSA: 10:5-3 (Amends "Law against discrimination")
BILL NO: A3774 (Substituted for S2454)
SPONSOR(S): Weinberg and Johnson
DATE INTRODUCED: June 12, 2002
COMMITTEE: **ASSEMBLY:** Housing and Local Government

SENATE: ----

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 23, 2003

SENATE: June 23, 2003

DATE OF APPROVAL: September 12, 2003

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

A3774

[SPONSORS STATEMENT:](#) (Begins on page 30 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

S2454

[SPONSORS STATEMENT:](#) (Begins on page 29 of original bill) [Yes](#)

Bill and Sponsors Statement identical to A3774

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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No

P.L. 2003, CHAPTER 180, *approved September 12, 2003*
Assembly, No. 3774

1 **AN ACT** concerning the Law Against Discrimination and amending
2 various parts of the statutory law.

3

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

6

7 1. Section 7 of P.L.1990, c.55 (C.2A:42-109) is amended to read
8 as follows.

9 7. Nothing in this act shall impair the rights of a **[handicapped]**
10 person with disabilities to own, harbor or care for a domesticated
11 animal, including guide dogs and service dogs, in accordance with the
12 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).
13 (cf: P.L.1990,c.55,s.7)

14

15 2. Section 134 of P.L.1977, c.110 (C.5:12-134) is amended to read
16 as follows:

17 134. a. Each applicant at the time of submitting architectural plans
18 or site plans to the commission for approval of proposed construction,
19 renovation or reconstruction of any structure or facility to be used as
20 an approved hotel or casino shall accompany same with a written
21 guaranty that all contracts and subcontracts to be awarded in
22 connection therewith shall contain appropriate provisions by which
23 contractors and subcontractors or their assignees agree to afford an
24 equal employment opportunity to all prospective employees and to all
25 actual employees to be employed by the contractor or subcontractor
26 in accordance with an affirmative action program approved by the
27 commission and consonant with the provisions of the "Law Against
28 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). On and after the
29 effective date of this amendatory act an applicant shall also be required
30 to demonstrate that equal employment opportunities in accordance
31 with the aforesaid affirmative-action program in compliance with
32 P.L. 1945, c.169 have been afforded to all prospective employees and
33 to all actual employees employed by a contractor or subcontractor in
34 connection with the actual construction, renovation or reconstruction
35 of any structure or facility to be used as an approved hotel or casino
36 prior to submission of architectural plans or site plans to the
37 commission.

38 b. No license shall be issued by the commission to any applicant,
39 including a casino service industry as defined in section 12 of this act,
40 who has not agreed to afford an equal employment opportunity to all
41 prospective employees in accordance with an affirmative-action

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 program approved by the commission and consonant with the
2 provisions of the "Law Against Discrimination," P.L.1945, c.169 (C.
3 10:5-1 et seq.).

4 c. Each applicant shall formulate for commission approval and
5 abide by an affirmative-action program of equal opportunity whereby
6 the applicant guarantees to provide equal employment opportunity to
7 rehabilitated offenders eligible under sections 90 and 91 of this act and
8 members of minority groups qualified for licensure in all employment
9 categories, including [the handicapped] a person with a disability, in
10 accordance with the provisions of the "Law Against Discrimination,"
11 P.L.1945, c.169 (C.10:5-1 et seq.), except in the case of the mentally
12 handicapped, if it can be clearly shown that such [handicap] disability
13 would prevent such person from performing a particular job.

14 d. Any license issued by the commission in violation of this section
15 shall be null and void.

16 (cf: P.L.1987, c.410, s.21)

17

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

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

32 The Legislature further declares its opposition to such practices of
33 discrimination when directed against any person by reason of the race,
34 creed, color, national origin, ancestry, age, sex, affectional or sexual
35 orientation, marital status, liability for service in the Armed Forces of
36 the United States, disability or nationality of that person or that
37 person's spouse, partners, members, stockholders, directors, officers,
38 managers, superintendents, agents, employees, business associates,
39 suppliers, or customers, in order that the economic prosperity and
40 general welfare of the inhabitants of the State may be protected and
41 ensured.

42 The Legislature further finds that because of discrimination, people
43 suffer personal hardships, and the State suffers a grievous harm. The
44 personal hardships include: economic loss; time loss; physical and
45 emotional stress; and in some cases severe emotional trauma, illness,
46 homelessness or other irreparable harm resulting from the strain of

1 employment controversies; relocation, search and moving difficulties;
2 anxiety caused by lack of information, uncertainty, and resultant
3 planning difficulty; career, education, family and social disruption; and
4 adjustment problems, which particularly impact on those protected by
5 this act. Such harms have, under the common law, given rise to legal
6 remedies, including compensatory and punitive damages. The
7 Legislature intends that such damages be available to all persons
8 protected by this act and that this act shall be liberally construed in
9 combination with other protections available under the laws of this
10 State.

11 (cf: P.L.1992, c.146, s.1)

12

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

15 4. All persons shall have the opportunity to obtain employment,
16 and to obtain all the accommodations, advantages, facilities, and
17 privileges of any place of public accommodation, publicly assisted
18 housing accommodation, and other real property without
19 discrimination because of race, creed, color, national origin, ancestry,
20 age, marital status, affectional or sexual orientation, familial status,
21 disability, nationality, sex or source of lawful income used for rental
22 or mortgage payments, subject only to conditions and limitations
23 applicable alike to all persons. This opportunity is recognized as and
24 declared to be a civil right.

25 (cf: P.L.2002, c.82, s.1)

26

27 5. Section 2 of P.L.1972, c.114 (C.10:5-4.1) is amended to read as
28 follows:

29 2. All of the provisions of the act to which this act is a supplement
30 shall be construed to prohibit any unlawful discrimination against any
31 person because such person is or has been at any time **[handicapped]**
32 disabled or any unlawful employment practice against such person,
33 unless the nature and extent of the **[handicap]** disability reasonably
34 precludes the performance of the particular employment. It shall be
35 unlawful discrimination under the "Law Against Discrimination,"
36 P.L.1945, c.169 (C.10:5-1 et seq.) to discriminate against any buyer
37 or renter because of the **[handicap]** disability of a person residing in
38 or intending to reside in a dwelling after it is sold, rented or made
39 available or because of any person associated with the buyer or renter.

40 (cf: P.L.1992, c.146, s.3)

41

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

44 5. As used in this act, unless a different meaning clearly appears
45 from the context:

46 a. "Person" includes one or more individuals, partnerships,

1 associations, organizations, labor organizations, corporations, legal
2 representatives, trustees, trustees in bankruptcy, receivers, and
3 fiduciaries.

4 b. "Employment agency" includes any person undertaking to
5 procure employees or opportunities for others to work.

6 c. "Labor organization" includes any organization which exists and
7 is constituted for the purpose, in whole or in part, of collective
8 bargaining, or of dealing with employers concerning grievances, terms
9 or conditions of employment, or of other mutual aid or protection in
10 connection with employment.

11 d. "Unlawful employment practice" and "unlawful discrimination"
12 include only those unlawful practices and acts specified in section 11
13 of this act.

14 e. "Employer" includes all persons as defined in subsection a. of
15 this section unless otherwise specifically exempt under another section
16 of this act, and includes the State, any political or civil subdivision
17 thereof, and all public officers, agencies, boards or bodies.

18 f. "Employee" does not include any individual employed in the
19 domestic service of any person.

20 g. "Liability for service in the Armed Forces of the United States"
21 means subject to being ordered as an individual or member of an
22 organized unit into active service in the Armed Forces of the United
23 States by reason of membership in the National Guard, naval militia or
24 a reserve component of the Armed Forces of the United States, or
25 subject to being inducted into such armed forces through a system of
26 national selective service.

27 h. "Division" means the "Division on Civil Rights" created by this
28 act.

29 i. "Attorney General" means the Attorney General of the State of
30 New Jersey or his representative or designee.

31 j. "Commission" means the Commission on Civil Rights created by
32 this act.

33 k. "Director" means the Director of the Division on Civil Rights.

34 l. "A place of public accommodation" shall include, but not be
35 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
36 camp, day camp, or resort camp, whether for entertainment of
37 transient guests or accommodation of those seeking health, recreation
38 or rest; any producer, manufacturer, wholesaler, distributor, retail
39 shop, store, establishment, or concession dealing with goods or
40 services of any kind; any restaurant, eating house, or place where food
41 is sold for consumption on the premises; any place maintained for the
42 sale of ice cream, ice and fruit preparations or their derivatives, soda
43 water or confections, or where any beverages of any kind are retailed
44 for consumption on the premises; any garage, any public conveyance
45 operated on land or water, or in the air, any stations and terminals
46 thereof; any bathhouse, boardwalk, or seashore accommodation; any

1 auditorium, meeting place, or hall; any theatre, motion-picture house,
2 music hall, roof garden, skating rink, swimming pool, amusement and
3 recreation park, fair, bowling alley, gymnasium, shooting gallery,
4 billiard and pool parlor, or other place of amusement; any comfort
5 station; any dispensary, clinic or hospital; any public library; any
6 kindergarten, primary and secondary school, trade or business school,
7 high school, academy, college and university, or any educational
8 institution under the supervision of the State Board of Education, or
9 the Commissioner of Education of the State of New Jersey. Nothing
10 herein contained shall be construed to include or to apply to any
11 institution, bona fide club, or place of accommodation, which is in its
12 nature distinctly private; nor shall anything herein contained apply to
13 any educational facility operated or maintained by a bona fide religious
14 or sectarian institution, and the right of a natural parent or one in loco
15 parentis to direct the education and upbringing of a child under his
16 control is hereby affirmed; nor shall anything herein contained be
17 construed to bar any private secondary or post secondary school from
18 using in good faith criteria other than race, creed, color, national
19 origin, ancestry or affectional or sexual orientation in the admission of
20 students.

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

28 n. The term "real property" includes real estate, lands, tenements
29 and hereditaments, corporeal and incorporeal, and leaseholds,
30 provided, however, that, except as to publicly assisted housing
31 accommodations, the provisions of this act shall not apply to the
32 rental: (1) of a single apartment or flat in a two-family dwelling, the
33 other occupancy unit of which is occupied by the owner as a residence
34 [or the household of the owner's family at the time of such rental]; or
35 (2) of a room or rooms to another person or persons by the owner or
36 occupant of a one-family dwelling occupied by the owner or occupant
37 as a residence [or the household of the owner's or occupant's family]
38 at the time of such rental. Nothing herein contained shall be construed
39 to bar any religious or denominational institution or organization, or
40 any organization operated for charitable or educational purposes,
41 which is operated, supervised or controlled by or in connection with
42 a religious organization, in the sale, lease or rental of real property,
43 from limiting admission to or giving preference to persons of the same
44 religion or denomination or from making such selection as is
45 calculated by such organization to promote the religious principles for
46 which it is established or maintained. Nor does any provision under

1 this act regarding discrimination on the basis of familial status apply
2 with respect to housing for older persons.

3 o. "Real estate broker" includes a person, firm or corporation who,
4 for a fee, commission or other valuable consideration, or by reason of
5 promise or reasonable expectation thereof, lists for sale, sells,
6 exchanges, buys or rents, or offers or attempts to negotiate a sale,
7 exchange, purchase, or rental of real estate or an interest therein, or
8 collects or offers or attempts to collect rent for the use of real estate,
9 or solicits for prospective purchasers or assists or directs in the
10 procuring of prospects or the negotiation or closing of any transaction
11 which does or is contemplated to result in the sale, exchange, leasing,
12 renting or auctioning of any real estate, or negotiates, or offers or
13 attempts or agrees to negotiate a loan secured or to be secured by
14 mortgage or other encumbrance upon or transfer of any real estate for
15 others; or any person who, for pecuniary gain or expectation of
16 pecuniary gain conducts a public or private competitive sale of lands
17 or any interest in lands. In the sale of lots, the term "real estate
18 broker" shall also include any person, partnership, association or
19 corporation employed by or on behalf of the owner or owners of lots
20 or other parcels of real estate, at a stated salary, or upon a
21 commission, or upon a salary and commission or otherwise, to sell
22 such real estate, or any parts thereof, in lots or other parcels, and who
23 shall sell or exchange, or offer or attempt or agree to negotiate the
24 sale or exchange, of any such lot or parcel of real estate.

25 p. "Real estate salesperson" includes any person who, for
26 compensation, valuable consideration or commission, or other thing of
27 value, or by reason of a promise or reasonable expectation thereof, is
28 employed by and operates under the supervision of a licensed real
29 estate broker to sell or offer to sell, buy or offer to buy or negotiate
30 the purchase, sale or exchange of real estate, or offers or attempts to
31 negotiate a loan secured or to be secured by a mortgage or other
32 encumbrance upon or transfer of real estate, or to lease or rent, or
33 offer to lease or rent any real estate for others, or to collect rents for
34 the use of real estate, or to solicit for prospective purchasers or lessees
35 of real estate, or who is employed by a licensed real estate broker to
36 sell or offer to sell lots or other parcels of real estate, at a stated
37 salary, or upon a commission, or upon a salary and commission, or
38 otherwise to sell real estate, or any parts thereof, in lots or other
39 parcels.

40 q. ["Handicapped"] "Disability" means [suffering from] physical
41 disability, infirmity, malformation or disfigurement which is caused by
42 bodily injury, birth defect or illness including epilepsy, and which shall
43 include, but not be limited to, any degree of paralysis, amputation, lack
44 of physical coordination, blindness or visual impediment, deafness or
45 hearing impediment, muteness or speech impediment or physical
46 reliance on a service or guide dog, wheelchair, or other remedial

1 appliance or device, or [from] any mental, psychological or
2 developmental disability resulting from anatomical, psychological,
3 physiological or neurological conditions which prevents the normal
4 exercise of any bodily or mental functions or is demonstrable,
5 medically or psychologically, by accepted clinical or laboratory
6 diagnostic techniques. [Handicapped] Disability shall also mean
7 [suffering from] AIDS or HIV infection.

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

13 s. "Guide dog" means a dog used to assist deaf persons or which
14 is fitted with a special harness so as to be suitable as an aid to the
15 mobility of a blind person, and is used by a blind person who has
16 satisfactorily completed a specific course of training in the use of such
17 a dog, and has been trained by an organization generally recognized by
18 agencies involved in the rehabilitation of the blind or deaf as reputable
19 and competent to provide dogs with training of this type.

20 t. "Guide or service dog trainer" means any person who is
21 employed by an organization generally recognized by agencies
22 involved in the rehabilitation of [the blind, handicapped or deaf]
23 persons with disabilities as reputable and competent to provide dogs
24 with training, and who is actually involved in the training process.

25 u. "Housing accommodation" means any publicly assisted housing
26 accommodation or any real property, or portion thereof, which is used
27 or occupied, or is intended, arranged, or designed to be used or
28 occupied, as the home, residence or sleeping place of one or more
29 persons, but shall not include any single family residence the occupants
30 of which rent, lease, or furnish for compensation not more than one
31 room therein.

32 v. "Public facility" means any place of public accommodation and
33 any street, highway, sidewalk, walkway, public building, and any other
34 place or structure to which the general public is regularly, normally or
35 customarily permitted or invited.

36 w. "Deaf person" means any person whose hearing is so severely
37 impaired that the person is unable to hear and understand normal
38 conversational speech through the unaided ear alone, and who must
39 depend primarily on a supportive device or visual communication such
40 as writing, lip reading, sign language, and gestures.

41 x. "Atypical hereditary cellular or blood trait" means sickle cell
42 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
43 fibrosis trait.

44 y. "Sickle cell trait" means the condition wherein the major natural
45 hemoglobin components present in the blood of the individual are
46 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as

1 defined by standard chemical and physical analytic techniques,
2 including electrophoresis; and the proportion of hemoglobin A is
3 greater than the proportion of hemoglobin S or one natural parent of
4 the individual is shown to have only normal hemoglobin components
5 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
6 proportions by standard chemical and physical analytic tests.

7 z. "Hemoglobin C trait" means the condition wherein the major
8 natural hemoglobin components present in the blood of the individual
9 are hemoglobin A (normal) and hemoglobin C as defined by standard
10 chemical and physical analytic techniques, including electrophoresis;
11 and the proportion of hemoglobin A is greater than the proportion of
12 hemoglobin C or one natural parent of the individual is shown to have
13 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
14 hemoglobin F) in normal proportions by standard chemical and
15 physical analytic tests.

16 aa. "Thalassemia trait" means the presence of the thalassemia gene
17 which in combination with another similar gene results in the chronic
18 hereditary disease Cooley's anemia.

19 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
20 which in combination with another similar gene results in the chronic
21 hereditary disease Tay-Sachs.

22 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
23 gene which in combination with another similar gene results in the
24 chronic hereditary disease cystic fibrosis.

25 dd. "Service dog" means any dog individually trained to [a
26 handicapped person's requirements] the requirements of a person with
27 a disability including, but not limited to minimal protection work,
28 rescue work, pulling a wheelchair or retrieving dropped items.

29 ee. "Qualified Medicaid applicant" means an individual who is a
30 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

31 ff. "AIDS" means acquired immune deficiency syndrome as defined
32 by the Centers for Disease Control of the United States Public Health
33 Service.

34 gg. "HIV infection" means infection with the human
35 immunodeficiency virus or any other related virus identified as a
36 probable causative agent of AIDS.

37 hh. "Affectional or sexual orientation" means male or female
38 heterosexuality, homosexuality or bisexuality by inclination, practice,
39 identity or expression, having a history thereof or being perceived,
40 presumed or identified by others as having such an orientation.

41 ii. "Heterosexuality" means affectional, emotional or physical
42 attraction or behavior which is primarily directed towards persons of
43 the other gender.

44 jj. "Homosexuality" means affectional, emotional or physical
45 attraction or behavior which is primarily directed towards persons of
46 the same gender.

1 kk. "Bisexuality" means affectional, emotional or physical
2 attraction or behavior which is directed towards persons of either
3 gender.

4 ll. "Familial status" means being the natural parent of a child, the
5 adoptive parent of a child, the foster parent of a child, having a "parent
6 and child relationship" with a child as defined by State law, or having
7 sole or joint legal or physical custody, care, guardianship, or visitation
8 with a child, or any person who is pregnant or is in the process of
9 securing legal custody of any individual who has not attained the age
10 of 18 years.

11 mm. "Housing for older persons" means housing:

12 (1) provided under any State [or federal] program that the
13 Attorney General determines is specifically designed and operated to
14 assist elderly persons (as defined in the State [or federal] program);
15 or provided under any federal program that the United States
16 Department of Housing and Urban Development determines is
17 specifically designed and operated to assist elderly persons (as defined
18 in the federal program); or

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

21 (3) intended and operated for occupancy by at least one person 55
22 years of age or older per unit. In determining whether housing
23 qualifies as housing for older persons under this subsection, the
24 Attorney General shall adopt regulations which require at least the
25 following factors:

26 (a) the existence of significant facilities and services specifically
27 designed to meet the physical or social needs of older persons, or if the
28 provision of such facilities and services is not practicable, that such
29 housing is necessary to provide important housing opportunities for
30 older persons; and

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

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

36 Housing shall not fail to meet the requirements for housing for
37 older persons by reason of: persons residing in such housing as of
38 ~~[March 12, 1989]~~ September 13, 1988 not meeting the age
39 requirements of this subsection, provided that new occupants of such
40 housing meet the age requirements of this subsection; or unoccupied
41 units, provided that such units are reserved for occupancy by persons
42 who meet the age requirements of this subsection.

43 nn. "Genetic characteristic" means any inherited gene or
44 chromosome, or alteration thereof, that is scientifically or medically
45 believed to predispose an individual to a disease, disorder or
46 syndrome, or to be associated with a statistically significant increased

1 risk of development of a disease, disorder or syndrome.

2 oo. "Genetic information" means the information about genes, gene
3 products or inherited characteristics that may derive from an individual
4 or family member.

5 pp. "Genetic test" means a test for determining the presence or
6 absence of an inherited genetic characteristic in an individual, including
7 tests of nucleic acids such as DNA, RNA and mitochondrial DNA,
8 chromosomes or proteins in order to identify a predisposing genetic
9 characteristic.

10 (cf: P.L.1996, c.126, s.4)

11

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

14 6. There is created in the Department of Law and Public Safety a
15 division known as "The Division on Civil Rights" with power to
16 prevent and eliminate discrimination in the manner prohibited by this
17 act against persons because of race, creed, color, national origin,
18 ancestry, age, marital status, affectional or sexual orientation, familial
19 status, nationality, disability, or sex or because of their liability for
20 service in the Armed Forces of the United States, by employers, labor
21 organizations, employment agencies or other persons and to take other
22 actions against discrimination because of race, creed, color, national
23 origin, ancestry, marital status, sex, familial status nationality,
24 disability, or age or because of their liability for service in the Armed
25 Forces of the United States, as herein provided; and the division
26 created hereunder is given general jurisdiction and authority for such
27 purposes.

28 (cf: P.L.1992, c.146, s.5)

29

30 8. Section 8 of P.L.1945, c.169 (C.10:5-8) is amended to read as
31 follows:

32 8. The Attorney General shall:

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

34 b. Administer the work of the division.

35 c. Organize the division into sections, which shall include but not
36 be limited to a section which shall receive, investigate, and act upon
37 complaints alleging discrimination against persons because of race,
38 creed, color, national origin, ancestry, age, marital status, affectional
39 or sexual orientation, familial status, disability, nationality or sex or
40 because of their liability for service in the Armed Forces of the United
41 States; and another which shall, in order to eliminate prejudice and to
42 further good will among the various racial and religious and nationality
43 groups in this State, study, recommend, prepare and implement, in
44 cooperation with such other departments of the State Government or
45 any other agencies, groups or entities both public and private, such
46 educational and human relations programs as are consonant with the

1 objectives of this act; and prescribe the organization of said sections
2 and the duties of his subordinates and assistants.

3 d. Appoint a Director of the Division on Civil Rights, who shall act
4 for the Attorney General, in the Attorney General's place and with the
5 Attorney General's powers, which appointment shall be subject to the
6 approval of the commission and the Governor, a deputy director and
7 such assistant directors, field representatives and assistants as may be
8 necessary for the proper administration of the division and fix their
9 compensation within the limits of available appropriations. The
10 director, deputy director, assistant directors, field representatives and
11 assistants shall not be subject to the Civil Service Act and shall be
12 removable by the Attorney General at will.

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

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

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

20 h. Conduct investigations, receive complaints and conduct hearings
21 thereon other than those complaints received and hearings held
22 pursuant to the provisions of this act.

23 i. In connection with any investigation or hearing held pursuant to
24 the provisions of this act, subpoena witnesses, compel their
25 attendance, administer oaths, take the testimony of any person, under
26 oath, and, in connection therewith, require the production for
27 examination of any books or papers relating to any subject matter
28 under investigation or in question by the division and conduct such
29 discovery procedures which may include the taking of interrogatories
30 and oral depositions as shall be deemed necessary by the Attorney
31 General in any investigation. The Attorney General may make rules
32 as to the issuance of subpoenas by the director. The failure of any
33 witness when duly subpoenaed to attend, give testimony, or produce
34 evidence shall be punishable by the Superior Court of New Jersey in
35 the same manner as such failure is punishable by such court in a case
36 therein pending.

37 j. Issue such publications and such results of investigations and
38 research tending to promote good will and to minimize or eliminate
39 discrimination because of race, creed, color, national origin, ancestry,
40 age, marital status, affectional or sexual orientation, familial status,
41 disability, nationality or sex, as the commission shall direct, subject to
42 available appropriations.

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

45 l. Appoint, subject to the approval of the commission, a panel of
46 not more than five hearing examiners, each of whom shall be duly

1 licensed to practice law in this State for a period of at least five years,
2 and each to serve for a term of one year and until his successor is
3 appointed, any one of whom the director may designate in his place to
4 conduct any hearing and recommend findings of fact and conclusions
5 of law. The hearing examiners shall receive such compensation as may
6 be determined by the Attorney General, subject to available
7 appropriations.

8 (cf: P.L.1992, c.146, s.6)

9

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

12 1. The Division on Civil Rights in the Department of Law and
13 Public Safety shall enforce the laws of this State against discrimination
14 in housing built with, or leased with the assistance of, public funds or
15 public assistance, pursuant to any law, and in real property, as defined
16 in the law hereby supplemented, because of race, religious principles,
17 color, national origin, ancestry, marital status, affectional or sexual
18 orientation, familial status, disability, nationality sex or source of
19 lawful income used for rental or mortgage payments. The said laws
20 shall be so enforced in the manner prescribed in the act to which this
21 act is a supplement.

22 (cf: P.L.2002, c.82, s.2)

23

24 10. Section 13 of P.L.1992, c.146 (C.10:5-9.2) is amended to read
25 as follows:

26 13. The provisions of this amendatory and supplementary act,
27 P.L.1992, c.146 (C.10:5-12.4 et al.), and P.L. , c. (now before the
28 Legislature as this bill), are intended to permit the Division on Civil
29 Rights in the Department of Law and Public Safety to qualify as a
30 "certified agency" within the meaning of the Federal Fair Housing
31 Amendments Act, Pub.L. 100-430 (42 U.S.C. s.3610 (f)), and shall be
32 construed as consistent with that purpose. Nothing in [this
33 amendatory and supplementary act,] P.L.1992, c.146 (C.10:5-12.4 et
34 al.) and P.L. , c. (now before the Legislature as this bill), shall be
35 construed to permit conduct prohibited by the "Law Against
36 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), prior to the
37 effective date of [this act, nor is it intended to be construed to prohibit
38 conduct now permitted] of P.L. , c. (now before the Legislature
39 as this bill).

40 (cf: P.L.1992, c.146, s.13)

41

42 11. Section 9 of P.L.1945, c.169 (C.10:5-10) is amended to read
43 as follows:

44 9. The commission shall:

45 a. Consult with and advise the Attorney General with respect to the
46 work of the division.

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

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

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

18 (cf: P.L.1992, c.146, s.8)

19

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

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

24 a. For an employer, because of the race, creed, color, national
25 origin, ancestry, age, marital status, affectional or sexual orientation,
26 genetic information, sex, disability or atypical hereditary cellular or
27 blood trait of any individual, or because of the liability for service in
28 the Armed Forces of the United States or the nationality of any
29 individual, or because of the refusal to submit to a genetic test or make
30 available the results of a genetic test to an employer, to refuse to hire
31 or employ or to bar or to discharge or require to retire, unless justified
32 by lawful considerations other than age, from employment such
33 individual or to discriminate against such individual in compensation
34 or in terms, conditions or privileges of employment; provided,
35 however, it shall not be an unlawful employment practice to refuse to
36 accept for employment an applicant who has received a notice of
37 induction or orders to report for active duty in the armed forces;
38 provided further that nothing herein contained shall be construed to
39 bar an employer from refusing to accept for employment any person
40 on the basis of sex in those certain circumstances where sex is a bona
41 fide occupational qualification, reasonably necessary to the normal
42 operation of the particular business or enterprise; provided further that
43 nothing herein contained shall be construed to bar an employer from
44 refusing to accept for employment or to promote any person over 70
45 years of age; provided further that it shall not be an unlawful
46 employment practice for a club exclusively social or fraternal to use

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

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

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

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

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

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

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

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

45 (2) Notwithstanding the definition of "public accommodation " as
46 set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-5),

1 for any owner, lessee, proprietor, manager, superintendent, agent, or
2 employee of any private club or association to directly or indirectly
3 refuse, withhold from or deny to any individual who has been accepted
4 as a club member and has contracted for or is otherwise entitled to full
5 club membership any of the accommodations, advantages, facilities or
6 privileges thereof, or to discriminate against any member in the
7 furnishing thereof on account of the race, creed, color, national origin,
8 ancestry, marital status, sex, affectional or sexual orientation, disability
9 or nationality of such person.

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

18 g. For ~~the~~ any person, including but not limited to, any owner,
19 lessee, sublessee, assignee or managing agent of, or other person
20 having the right of ownership or possession of or the right to sell, rent,
21 lease, assign, or sublease any real property or part or portion thereof,
22 or any agent or employee of any of these:

23 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
24 to deny to or withhold from any person or group of persons any real
25 property or part or portion thereof because of ~~the~~ race, creed, color,
26 national origin, ancestry, marital status, sex, affectional or sexual
27 orientation, familial status, disability, nationality, or source of lawful
28 income used for rental or mortgage payments ~~of such person or~~
29 ~~group of persons~~];

30 (2) To discriminate against any person or group of persons because
31 of ~~the~~ race, creed, color, national origin, ancestry, marital status,
32 sex, affectional or sexual orientation, familial status, disability,
33 nationality or source of lawful income used for rental or mortgage
34 payments ~~of such person or group of persons~~ in the terms,
35 conditions or privileges of the sale, rental or lease of any real property
36 or part or portion thereof or in the furnishing of facilities or services
37 in connection therewith;

38 (3) To print, publish, circulate, issue, display, post or mail, or
39 cause to be printed, published, circulated, issued, displayed, posted or
40 mailed any statement, advertisement, publication or sign, or to use any
41 form of application for the purchase, rental, lease, assignment or
42 sublease of any real property or part or portion thereof, or to make
43 any record or inquiry in connection with the prospective purchase,
44 rental, lease, assignment, or sublease of any real property, or part or
45 portion thereof which expresses, directly or indirectly, any limitation,
46 specification or discrimination as to race, creed, color, national origin,

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

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 lawful
18 income received by the person or the source of any lawful rent
19 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 age,
22 or to make an agreement, rental or lease of any real property which
23 provides that the agreement, rental or lease shall be rendered null and
24 void upon the birth of a child. This paragraph shall not apply to [any
25 county, State or Federally financed or assisted housing project
26 constructed for occupancy by senior citizens or to any property
27 located in a retirement subdivision as defined in the "Retirement
28 Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et
29 seq.), to any] housing for older persons [or to any unit in a planned
30 real estate development that is age-restricted and subject to the
31 provisions of the "Planned Real Estate Development Full Disclosure
32 Act," P.L.1977, c.419 (C.45:22A-21 et seq.).] as defined in subsection
33 mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

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

36 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
37 sale, rental, lease, assignment, or sublease any real property or part or
38 portion thereof to any person or group of persons or to refuse to
39 negotiate for the sale, rental, lease, assignment, or sublease of any real
40 property or part or portion thereof to any person or group of persons
41 because of [the] race, creed, color, national origin, ancestry, marital
42 status, familial status, sex, affectional or sexual orientation, disability,
43 nationality, or source of lawful income used for rental or mortgage
44 payments [of such person or group of persons], or to represent that
45 any real property or portion thereof is not available for inspection,
46 sale, rental, lease, assignment, or sublease when in fact it is so

1 available, or otherwise to deny or withhold any real property or any
2 part or portion of facilities thereof to or from any person or group of
3 persons because of [the] race, creed, color, national origin, ancestry,
4 marital status, familial status, sex, affectional or sexual orientation ,
5 disability or nationality [of such person or group of persons];

6 (2) To discriminate against any person because of [his] race,
7 creed, color, national origin, ancestry, marital status, familial status,
8 sex, affectional or sexual orientation, disability, nationality, or source
9 of lawful income used for rental or mortgage payments in the terms,
10 conditions or privileges of the sale, rental, lease, assignment or
11 sublease of any real property or part or portion thereof or in the
12 furnishing of facilities or services in connection therewith;

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

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

41 (5) To refuse to rent or lease any real property to another person
42 because that person's family includes children under 18 years of age,
43 or to make an agreement, rental or lease of any real property which
44 provides that the agreement, rental or lease shall be rendered null and
45 void upon the birth of a child. This paragraph shall not apply to [any
46 county, State or Federally financed or assisted housing project

1 constructed for occupancy by senior citizens or to any property
2 located in a retirement subdivision as defined in the "Retirement
3 Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et
4 seq.), to] housing for older persons [or to any unit in a planned real
5 estate development that is age-restricted and subject to the provisions
6 of the "Planned Real Estate Development Full Disclosure Act,"
7 P.L.1977, c.419 (C.45:22A-21 et seq.)] as defined in subsection mm.
8 of section 5 of P.L.1945, c.169 (C.10:5-5).

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

18 (1) To discriminate against any person or group of persons because
19 of [the] race, creed, color, national origin, ancestry, marital status,
20 sex, affectional or sexual orientation, disability, familial status or
21 nationality [of such person or group of persons or of the prospective
22 occupants or tenants of such real property or part or portion thereof],
23 in the granting, withholding, extending, modifying [or] , renewing, or
24 purchasing, or in the fixing of the rates, terms, conditions or
25 provisions of any such loan, extension of credit or financial assistance
26 or purchase thereof or in the extension of services in connection
27 therewith;

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

38 (3) [To discriminate on the basis of familial status in any manner
39 described in paragraph (1) or (2) of this subsection with respect to any
40 real property] (Deleted by amendment, P.L. c. (C.) (now before
41 the Legislature as this bill);

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

45 (5) To discriminate against any person or group of persons because

1 that person's family includes children under 18 years of age, or to
2 make an agreement or mortgage which provides that the agreement or
3 mortgage shall be rendered null and void upon the birth of a child.
4 This paragraph shall not apply to [any county, State or Federally
5 financed or assisted housing project constructed for occupancy by
6 senior citizens or to any property located in a retirement subdivision
7 as defined in the "Retirement Community Full Disclosure Act,"
8 P.L.1969, c.215 (C.45:22A-1 et seq.), to] housing for older persons
9 [or to any unit in a planned real estate development that is
10 age-restricted and subject to the provisions of the "Planned Real
11 Estate Development Full Disclosure Act," P.L.1977, c.419
12 (C.45:22A-21 et seq.)] as defined in subsection mm. of section 5 of
13 P.L.1945, c.169 (C.10:5-5).

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

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

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

1 unlawful discrimination or unlawful employment practices.

2 m. For any person to:

3 (1) Grant or accept any letter of credit or other document which
4 evidences the transfer of funds or credit, or enter into any contract for
5 the exchange of goods or services, where the letter of credit, contract,
6 or other document contains any provisions requiring any person to
7 discriminate against or to certify that he, she or it has not dealt with
8 any other person on the basis of the race, creed, color, national origin,
9 ancestry, age, sex, affectional or sexual orientation, marital status,
10 disability, liability for service in the Armed Forces of the United
11 States, or nationality of such other person or of such other person's
12 spouse, partners, members, stockholders, directors, officers, managers,
13 superintendents, agents, employees, business associates, suppliers, or
14 customers.

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

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

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

30 (1) Buying from, selling to, leasing from or to, licensing,
31 contracting with, trading with, providing goods, services, or
32 information to, or otherwise doing business with any person because
33 that person does, or agrees or attempts to do, any such act or any act
34 prohibited by this subsection [n.]; or

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

44 o. For any multiple listing service, real estate brokers' organization
45 or other service, organization or facility related to the business of
46 selling or renting dwellings to deny any person access to or

1 membership or participation in such organization, or to discriminate
2 against such person in the terms or conditions of such access,
3 membership, or participation, on account of race, creed, color,
4 national origin, ancestry, age, marital status, familial status, sex,
5 affectional or sexual orientation, disability or nationality.

6 (cf: P.L.2002, c.82, s.3)

7

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

10 12. a. It shall be an unlawful discrimination for a municipality,
11 county or other local civil or political subdivision of the State of New
12 Jersey, or an officer, employee, or agent thereof, to exercise the power
13 to regulate land use or housing in a manner that discriminates on the
14 basis of race, creed, color, national origin, ancestry, marital status,
15 familial status, sex, nationality or [handicap] disability.

16 b. Notwithstanding the provisions of section 12 of P.L.1945, c.169
17 (C.10:5-13) any person claiming to be aggrieved by an unlawful
18 discrimination under this section shall enforce this section by private
19 right of action in Superior Court. This section shall not apply to
20 discrimination in housing owned or managed by a municipality, county
21 or other local civil or political subdivision of the State of New Jersey
22 where such discrimination is otherwise prohibited by section 11 of
23 P.L.1945, c.169 (C.10:5-12).

24 (cf: P.L.1992, c.146, s.12)

25

26 14. Section 13 of P.L.1945, c.169 (C.10:5-14) is amended to read
27 as follows:

28 13. After the filing of any complaint, the Attorney General shall
29 cause prompt investigation to be made in connection therewith and
30 advise the complainant of the results thereof. [If the Attorney General
31 shall determine after such investigation that probable cause exists for
32 crediting the allegations of the complaint, the Attorney General shall
33 immediately endeavor to eliminate the unlawful employment practice
34 or the unlawful discrimination complained of by conference,
35 conciliation and persuasion during a period terminating not later than
36 45 days from the date of the finding of probable cause.] During the
37 period beginning with the filing of such complaint and ending with the
38 closure of the case or 45 days from the date of a finding of probable
39 cause, the Attorney General shall, to the extent feasible, engage in
40 conciliation with respect to such complaint. Neither the Attorney
41 General nor any officer or employee of the division shall disclose any
42 conversation between the Attorney General or a representative and the
43 respondent or a representative at such conference, except that the
44 Attorney General and any officer or employee may disclose the terms
45 of a settlement offer to the complainant or other aggrieved person on

1 whose behalf the complaint was filed.

2 (cf: P.L.1992, c.146, s.10)

3

4 15. Section 15 of P.L.1945, c.169 (C.10:5-16) is amended to read
5 as follows:

6 15. ~~15. [The] When the director has issued a finding of probable~~
7 ~~cause, the~~ case in support of the complaint shall be presented before
8 the director by the attorney for the division and evidence concerning
9 attempted conciliation shall not be received. The respondent shall file
10 a written verified answer to the complaint and appear at such hearing
11 in person or by representative, with or without counsel, and submit
12 testimony. ~~[In the discretion of the director, the] The~~ complainant
13 ~~[may] shall~~ be allowed to intervene and present testimony in person
14 and may be represented by counsel. The director or the complainant
15 shall have the power reasonably and fairly to amend any complaint,
16 and the respondent shall have like power to amend his answer. The
17 director shall not be bound by the strict rules of evidence prevailing in
18 civil actions in courts of competent jurisdiction of this State. The
19 testimony taken at the hearing shall be under oath and a verbatim
20 record shall be made. When the director has issued a finding of
21 probable cause in a housing discrimination complaint only, any party
22 to that complaint may elect, in lieu of the administrative proceeding set
23 forth in this section, to have the claim asserted in the finding of
24 probable cause adjudicated in a civil action in Superior Court pursuant
25 to section 12 of P.L.1945, c.169 (C.10:5-13). Such an election shall
26 be made not later than 20 days after receipt of the finding of probable
27 cause. Upon such election, the attorney for the division shall promptly
28 file such an action in Superior Court. Upon application to the court
29 wherein the matter is pending, the complainant shall be permitted to
30 intervene and present testimony in person and may be represented by
31 counsel.

32 (cf: P.L.1980, c.71, s.1)

33

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

36 16. If, upon all evidence at the hearing, the director shall find that
37 the respondent has engaged in any unlawful employment practice or
38 unlawful discrimination as defined in this act, the director shall state
39 his findings of fact and conclusions of law and shall issue and cause to
40 be served on such respondent an order requiring such respondent to
41 cease and desist from such unlawful employment practice or unlawful
42 discrimination and to take such affirmative action, including, but not
43 limited to, hiring, reinstatement or upgrading of employees, with or
44 without back pay, or restoration to membership, in any respondent
45 labor organization, or extending full and equal accommodations,
46 advantages, facilities, and privileges to all persons, as, in the judgment

1 of the director, will effectuate the purpose of this act, and including a
2 requirement for report of the manner of compliance. If the conduct
3 violative of this act constitutes any form of unlawful economic
4 discrimination prohibited in section 11, subsections 1., m., and n. of
5 this act, the affirmative action taken by the director may include the
6 award of three-fold damages to the person or persons aggrieved by the
7 violation. The director shall have the power to use reasonably certain
8 bases, including but not limited to list, catalogue or market prices or
9 values, or contract or advertised terms and conditions, in order to
10 determine particulars or performance in giving appropriate remedy.
11 In addition to any other remedies provided by P.L.1945, c.169
12 (C.10:5-1 et seq.), a prevailing complainant may recover damages to
13 compensate for emotional distress caused by the activities found to be
14 in violation of P.L.1945, c.169 (C.10:5-1 et seq.) to the same extent
15 as is available in common law tort actions. In any case in which the
16 director, Attorney General, or appropriate organization is a
17 complainant, on behalf of named or unnamed individuals or a class of
18 individuals, any of the remedies or relief allowed by this act may be
19 awarded or applied to the named or unnamed individual victims of
20 discrimination. If, upon all evidence, the director shall find that the
21 respondent has not engaged in any such unlawful practice or unlawful
22 discrimination, the director shall state his findings of fact and
23 conclusions of law and shall issue and cause to be served on the
24 complainant an order dismissing the said complaint as to such
25 respondent.

26 (cf: P.L.1979, c.404, s.3)

27

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

30 26. The provisions of this act shall be construed fairly and justly
31 with due regard to the interests of all parties. Nothing contained in
32 this act shall be deemed to repeal any of the provisions of the Civil
33 Rights Law or of any other law of this State relating to discrimination
34 because of race, creed, color, national origin, ancestry, marital status,
35 affectional or sexual orientation, disability, nationality or sex or
36 liability for service in the Armed Forces of the United States; except
37 that, as to practices and acts declared unlawful by section 11 of this
38 act, the procedure herein provided shall, while pending, be exclusive;
39 and the final determination therein shall exclude any other action, civil
40 or criminal, based on the same grievance of the individual concerned.
41 Nothing herein contained shall bar, exclude or otherwise affect any
42 right or action, civil or criminal, which may exist independently of any
43 right to redress against or specific relief from any unlawful
44 employment practice or unlawful discrimination. With respect only to
45 affectional or sexual orientation, nothing contained herein shall be
46 construed to require the imposition of affirmative action, plans or

1 quotas as specific relief from an unlawful employment practice or
2 unlawful discrimination.

3 (cf: P.L.1991, c.519, s.9)

4

5 18. Section 1 of P.L.1971, c.130 (C.10:5-29) is amended to read
6 as follows:

7 1. Any **[handicapped, blind or deaf]** person with a disability
8 accompanied by a service or guide dog trained by a recognized
9 training agency or school is entitled, with his dog, to the full and equal
10 enjoyment, advantages, facilities and privileges of all public facilities,
11 subject only to the following conditions:

12 a. A **[handicapped, blind or deaf]** person with a disability, if
13 accompanied by a service or guide dog, shall keep such dog in his
14 immediate custody at all times;

15 b. A **[handicapped, blind or deaf]** person with a disability
16 accompanied by a service or guide dog shall not be charged any extra
17 fee or payment for admission to or use of any public facility;

18 c. A **[handicapped, blind or deaf]** person with a disability who has
19 a service or guide dog in his possession shall be liable for any damages
20 done to the premises of a public facility by such dog.

21 d. (Deleted by amendment; P.L.1981, c. 391.)

22 (cf: P.L.1983, c.485, s.4)

23

24 19. Section 3 of P.L.1977, c.456 (C.10:5-29.1) is amended to read
25 as follows:

26 3. Unless it can be clearly shown that a person's **[handicap,**
27 **blindness or deafness]** disability would prevent such person from
28 performing a particular job, it is an unlawful employment practice to
29 deny to an otherwise qualified **[handicapped, blind or deaf]** person
30 with a disability the opportunity to obtain or maintain employment, or
31 to advance in position in his job, solely because such person is
32 **[handicapped, blind or deaf]** a person with a disability or because such
33 person is accompanied by a service or guide dog.

34 (cf: P.L.1983, c.485, s.5)

35

36 20. Section 4 of P.L.1977, c.456 (C.10:5-29.2) is amended to read
37 as follows:

38 4. A **[handicapped, blind or deaf]** person with a disability is
39 entitled to rent, lease or purchase, as other members of the general
40 public, all housing accommodations offered for rent, lease, or
41 compensation in this State, subject to the rights, conditions and
42 limitations established by law **[and applicable alike to all persons]**.
43 Nothing in this section shall require any person renting, leasing or
44 providing for compensation real property, to modify such property in
45 any way to provide a higher degree of care for a **[handicapped, blind**

1 or deaf] person with a disability than for any other person. A
2 [handicapped, blind or deaf] person with a disability who has a service
3 or guide dog, or who obtains a service or guide dog, shall be entitled
4 to full and equal access to all housing accommodations and shall not
5 be required to pay extra compensation for such service or guide dog,
6 but shall be liable for any damages done to the premises by such dog.
7 Any provision in any lease or rental agreement prohibiting maintenance
8 of a pet or pets on or in the premises shall not be applicable to a
9 service or guide dog owned by a [handicapped, blind or deaf] tenant
10 who is a person with a disability.

11 (cf: P.L.1983, c.485, s.6)

12

13 21. Section 5 of P.L.1977, c.456 (C.10:5-29.3) is amended to read
14 as follows:

15 5. A service or guide dog trainer, while engaged in the actual
16 training process and activities of service dogs or guide dogs, shall have
17 the same rights and privileges with respect to access to public
18 facilities, and the same responsibilities as are applicable to a
19 [handicapped, blind or deaf] person with a disability.

20 (cf: P.L.1983, c.485, s.7)

21

22 22. Section 6 of P.L.1977, c.456 (C.10:5-29.4) is amended to read
23 as follows:

24 6. A [blind] person with a disability accompanied by a guide dog,
25 or a guide dog instructor engaged in instructing a guide dog, shall
26 have the right-of-way over vehicles while crossing a highway or any
27 intersection thereof, as provided in section 1 of P.L.1939, c.274
28 (C.39:4-37.1).

29 (cf: P.L.1999, c.264, s.1)

30

31 23. Section 9 of P.L.1980, c.46 (C.10:5-29.6) is amended to read
32 as follows:

33 9. Whenever the law accords rights and privileges to or imposes
34 conditions and restrictions upon blind persons with respect to their use
35 of dogs to countervail their [handicap] disability, and known and
36 described as "seeing eye" dogs, those rights, privileges, conditions
37 and restrictions shall also apply to [handicapped or deaf persons]
38 persons with disabilities with respect to their use of dogs to
39 countervail their [handicap] disability, and known and described as
40 either "service dogs" or "hearing ear" dogs.

41 (cf: P.L.1983, c.485, s.8)

42

43 24. Section 1 of P.L.1975, c.127 (C.10:5-31) is amended to read
44 as follows:

45 1. As used in this act:

46 a. "Public works contract" means any contract to be performed for

1 or on behalf of the State or any county or municipality or other
2 political subdivision of the State, or any agency or authority created
3 by any of the foregoing, for the construction, alteration or repair of
4 any building or public work or for the acquisition of materials,
5 equipment, supplies or services with respect to which discrimination
6 in the hiring of persons for the performance of work thereunder or
7 under any subcontract thereunder by reason of race, creed, color,
8 national origin, ancestry, marital status, affectional or sexual
9 orientation, nationality, disability or sex is prohibited under
10 R.S.10:2-1.

11 b. "Equal employment opportunity" means equality in opportunity
12 for employment by any contractor, subcontractor or business firm
13 engaged in the carrying out of a public works project including its
14 development, design, acquisition, construction, management and
15 operation.

16 (cf: P.L.1991, c.519, s.11)

17

18 25. Section 3 of P.L.1975, c.127 (C.10:5-33) is amended to read
19 as follows:

20 3. The State or any county or municipality or other political
21 subdivision of the State, or any agency of or authority created by any
22 of the foregoing, shall include in the bid specifications and the contract
23 provisions of any public works contract the following language:

24 "During the performance of this contract, the contractor agrees as
25 follows:

26 a. The contractor or subcontractor, where applicable, will not
27 discriminate against any employee or applicant for employment
28 because of age, race, creed, color, national origin, ancestry, marital
29 status, affectional or sexual orientation, disability, nationality or sex.
30 Except with respect to affectional or sexual orientation, the contractor
31 will take affirmative action to ensure that such applicants are recruited
32 and employed, and that employees are treated during employment,
33 without regard to their age, race, creed, color, national origin,
34 ancestry, marital status, affectional or sexual orientation, disability,
35 nationality or sex. Such action shall include, but not be limited to the
36 following: employment, upgrading, demotion, or transfer; recruitment
37 or recruitment advertising; layoff or termination; rates of pay or other
38 forms of compensation; and selection for training, including
39 apprenticeship. The contractor agrees to post in conspicuous places,
40 available to employees and applicants for employment, notices to be
41 provided by the contracting officer setting forth the provisions of this
42 nondiscrimination clause;

43 b. The contractor or subcontractor, where applicable will, in all
44 solicitations or advertisements for employees placed by or on behalf
45 of the contractor, state that all qualified applicants will receive
46 consideration for employment without regard to age, race, creed,

1 color, national origin, ancestry, marital status, affectional or sexual
2 orientation, disability, nationality or sex;

3 c. The contractor or subcontractor where applicable, will send to
4 each labor union or representative of workers with which he has a
5 collective bargaining agreement or other contract or understanding, a
6 notice, to be provided by the agency contracting officer, advising the
7 labor union or workers' representative of the contractor's commitments
8 under this act and shall post copies of the notice in conspicuous places
9 available to employees and applicants for employment."

10 In soliciting bids for any public works contract the State or any
11 county or municipality or other political subdivision of the State, or
12 any agency of or authority created by any of the foregoing, shall
13 include in the advertisement and solicitation of bids the following
14 language: "Bidders are required to comply with the requirements of
15 P.L.1975, c.127."

16 (cf: P.L.1991, c.519, s.13)

17

18 26. Section 12 of P.L.1979, c.150 (C.27:25-12) is amended to read
19 as follows:

20 a. The corporation shall formulate and abide by an
21 affirmative-action program of equal opportunity whereby it will
22 provide equal employment opportunity to rehabilitated offenders and
23 members of minority groups qualified in all employment categories,
24 including **[the handicapped]** persons with disabilities, in accordance
25 with the provisions of the "Law Against Discrimination," P.L.1945,
26 c.169 (C.10:5-1 et seq.), except in the case of the mentally
27 **[handicapped]** disabled, if it can be clearly shown that such
28 **[handicap]** disability would prevent such person from performing a
29 particular job.

30 b. Contracts and subcontracts to be awarded by the corporation in
31 connection with the construction, renovation or reconstruction of any
32 structure or facility owned or used by the corporation shall contain
33 appropriate provisions by which contractors and subcontractors or
34 their assignees agree to afford an equal employment opportunity to all
35 prospective employees and to all actual employees to be employed by
36 the contractor or subcontractor in accordance with an affirmative
37 action program consonant with the provisions of the "Law Against
38 Discrimination" P.L.1945, c.169 (C.10:5-1 et seq.).

39 (P.L.1979, c.150, s.12)

40

41 27. Section 2 of P.L.1994, c.176 (C.32:8-3.6) is amended to read
42 as follows:

43 2. a. The Delaware River Joint Toll Bridge Commission shall
44 formulate and abide by an affirmative action program of equal
45 opportunity whereby it will provide equal employment opportunity to
46 members of minority groups qualified in all employment categories,

1 including [the handicapped] persons with disabilities, in accordance
2 with the provisions of the "Law Against Discrimination," P.L.1945,
3 c.169 (C.10:5-1) and the "Pennsylvania Human Relations Act,"
4 number 222 of the laws of Pennsylvania of 1955, except in the case of
5 the mentally [handicapped] disabled, if it can be clearly shown that
6 such [handicap] disability would prevent such person from performing
7 a particular job.

8 b. Contracts and subcontracts to be awarded by the commission in
9 connection with the construction, renovation or reconstruction of any
10 structure or facility owned or used by the commission shall contain
11 appropriate provisions by which contractors and subcontractors or
12 their assignees agree to afford an equal employment opportunity to all
13 prospective employees and to all actual employees to be employed by
14 the contractor or subcontractor in accordance with an affirmative
15 action program consonant with the provisions of the "Law Against
16 Discrimination," P.L.1945, c.169 (C.10:5-1) and the "Pennsylvania
17 Human Relations Act," number 222 of the laws of Pennsylvania of
18 1955.

19 (cf: P.L.1994, c.176, s.2)

20

21 28. This act shall take effect on the first day of the fourth month
22 following enactment.

23

24

25

STATEMENT

26

27 This bill would amend the New Jersey "Law Against
28 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), to provide
29 substantially equivalent protections against discrimination to those
30 provided under the federal Fair Housing Act. These amendments will
31 enable the New Jersey Division on Civil Rights to achieve certification
32 by the federal Department of Housing and Urban Development
33 (HUD) as a substantially equivalent agency under the Fair Housing
34 Act, and thereby to receive federal reimbursement for the investigation
35 of housing cases, as well as to be eligible for federal funding for
36 training programs, special enforcement efforts, and partnerships with
37 private organizations. These amendments are required by HUD for
38 such certification.

39 **Disability Discrimination.** Under current law, the provisions of
40 the "Law Against Discrimination" that enumerate the categories of
41 protection under the statute do not specifically include "handicap."
42 Instead, Section 2 of P.L.1972, c.114 (C.10:5-4.1) generally provides
43 that it is unlawful to discriminate against any person because such
44 person is or has been handicapped. This bill would add "disability" to
45 each portion of the statute in which the protected categories are listed,
46 thereby providing consistency and clarity to this area of the law. The

1 bill would also substitute "disability" for "handicapped" wherever it
2 appears in the "Law Against Discrimination."

3 **Exemptions for Owner-Occupied Housing.** Under current law,
4 certain housing that is occupied by the owner or the owner's family is
5 exempt from the provisions of the "Law Against Discrimination." This
6 bill would narrow this exemption to applicable dwellings in which the
7 other unit is actually occupied by the owner.

8 **Housing for Older Persons.** Under the provisions of this bill, the
9 definition of housing for older persons would be amended in order to
10 conform to the definition under federal law. Current law defines
11 housing for older persons, in part, as housing "provided under any
12 State of federal program that the Attorney General determines is
13 specifically designed and operated to assist elderly persons ..."
14 (subsection mm. of Section 5 of P.L.1945, c.169 (C.10:5-5). The bill
15 would clarify that the Secretary of HUD would make that designation
16 with respect to federal programs.

17 **Familial Status Exemptions.** Recent amendments to the "Law
18 Against Discrimination" pertaining to source of income protections,
19 had, in one section, the effect of broadening the exemptions from the
20 provisions prohibiting discrimination based on familial status. This bill
21 would limit that exemption to housing for older persons as already
22 defined by (subsection mm. of Section 5 of P.L.1945, c.169 (C.10:5-
23 5).

24 **Discrimination in the Extension of Credit.** The bill would amend
25 subsection i. of Section 11 of P.L.1945, c.169 (C.10:5-12), which
26 prohibits discrimination in the extension of credit and making of loans,
27 to clarify that the prohibitions apply to loans secured by residential real
28 estate regardless of the purpose of the loan, and to the purchase of any
29 loan or extension of credit.

30 **Discrimination by Brokers' Organizations.** The bill would add
31 a new section to the "Law Against Discrimination" which would
32 prohibit multiple listing services, real estate brokers' organizations and
33 similar organizations from denying access to or membership in the
34 organizations or discriminating in the terms and conditions of such
35 access or membership on account of an individual's protected status.

36 **Conciliation Procedures.** Under this bill, Section 13 of P.L.1945,
37 c.169 (C.10:5-14) would be amended to clarify that the Division on
38 Civil Rights will attempt conciliation of cases from the time the
39 complaint is filed until closure of the case or 45 days after the finding
40 of probable cause.

41 **Election of Remedies.** This bill would provide an election of
42 remedies in housing cases in order to provide procedures equivalent
43 to those available under federal law. The bill would amend Section 15
44 of P.L.1945, c.169 (C.10:5-16) to provide that where the director of
45 the Division on Civil Rights has issued a finding of probable cause in
46 a housing case only, any party may elect, in lieu of the administrative

1 procedures set forth in the "Law Against Discrimination," to have the
2 claim asserted in a civil action in Superior Court, prosecuted by the
3 Division on Civil Rights. The bill further provides that this election
4 must be made within 20 days of receipt of the finding of probable
5 cause, and, in the discretion of the director, the complainant may be
6 allowed to intervene, present testimony, and be represented by counsel
7 in the Superior Court action. The bill does not affect the current
8 ability of the Division on Civil Rights to seek costs and attorneys fees
9 if it is a prevailing party.

10 **Compensatory Damages.** The bill would amend Section 16 of
11 P.L.1945, c.169 (C.10:5-17) to clarify that complaints in
12 administrative hearings can recover damages for emotional distress to
13 the same extent as plaintiffs in "Law Against Discrimination" actions
14 brought in Superior Court. This amendment is necessary because case
15 law suggested, in dicta, that the director's authority to award
16 compensatory damages after an administrative proceeding is limited.
17 See, Maczik v. Gilford Park Yacht Club, 271 N.J. Super. 439, 448 n.3
18 (App. Div. 1994). Under this bill, victims of discrimination would be
19 entitled to obtain equivalent remedies to compensate them for injuries
20 related to the discrimination, regardless of the forum in which they
21 filed.

22

23

24

25

26 Amends "Law Against Discrimination" to provide substantially same
27 protections against discrimination as provided under "Federal Fair
28 Housing Act."

ASSEMBLY, No. 3774

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 12, 2003

Sponsored by:

Assemblywoman LORETTA WEINBERG

District 37 (Bergen)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Co-Sponsored by:

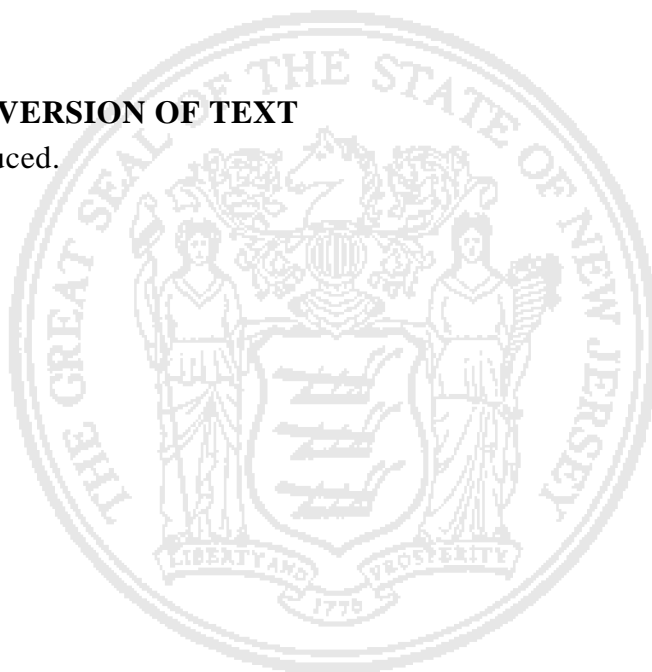
**Assemblyman Conaway, Assemblywoman Heck, Senators Bryant, James
and Allen**

SYNOPSIS

Amends "Law Against Discrimination" to provide substantially same protections against discrimination as provided under "Federal Fair Housing Act."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/24/2003)

1 AN ACT concerning the Law Against Discrimination and amending
2 various parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 7 of P.L.1990, c.55 (C.2A:42-109) is amended to read
8 as follows.

9 7. Nothing in this act shall impair the rights of a [handicapped]
10 person with disabilities to own, harbor or care for a domesticated
11 animal, including guide dogs and service dogs, in accordance with the
12 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).
13 (cf: P.L.1990,c.55,s.7)

14
15 2. Section 134 of P.L.1977, c.110 (C.5:12-134) is amended to read
16 as follows:

17 134. a. Each applicant at the time of submitting architectural plans
18 or site plans to the commission for approval of proposed construction,
19 renovation or reconstruction of any structure or facility to be used as
20 an approved hotel or casino shall accompany same with a written
21 guaranty that all contracts and subcontracts to be awarded in
22 connection therewith shall contain appropriate provisions by which
23 contractors and subcontractors or their assignees agree to afford an
24 equal employment opportunity to all prospective employees and to all
25 actual employees to be employed by the contractor or subcontractor
26 in accordance with an affirmative action program approved by the
27 commission and consonant with the provisions of the "Law Against
28 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). On and after the
29 effective date of this amendatory act an applicant shall also be required
30 to demonstrate that equal employment opportunities in accordance
31 with the aforesaid affirmative-action program in compliance with
32 P.L. 1945, c.169 have been afforded to all prospective employees and
33 to all actual employees employed by a contractor or subcontractor in
34 connection with the actual construction, renovation or reconstruction
35 of any structure or facility to be used as an approved hotel or casino
36 prior to submission of architectural plans or site plans to the
37 commission.

38 b. No license shall be issued by the commission to any applicant,
39 including a casino service industry as defined in section 12 of this act,
40 who has not agreed to afford an equal employment opportunity to all
41 prospective employees in accordance with an affirmative-action
42 program approved by the commission and consonant with the
43 provisions of the "Law Against Discrimination," P.L.1945, c.169 (C.
44 10:5-1 et seq.).

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

Matter underlined thus is new matter.

1 c. Each applicant shall formulate for commission approval and
2 abide by an affirmative-action program of equal opportunity whereby
3 the applicant guarantees to provide equal employment opportunity to
4 rehabilitated offenders eligible under sections 90 and 91 of this act and
5 members of minority groups qualified for licensure in all employment
6 categories, including ~~the handicapped~~ a person with a disability, in
7 accordance with the provisions of the "Law Against Discrimination,"
8 P.L.1945, c.169 (C.10:5-1 et seq.), except in the case of the mentally
9 handicapped, if it can be clearly shown that such ~~handicap~~ disability
10 would prevent such person from performing a particular job.

11 d. Any license issued by the commission in violation of this section
12 shall be null and void.
13 (cf: P.L.1987, c.410, s.21)

14

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

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

29 The Legislature further declares its opposition to such practices of
30 discrimination when directed against any person by reason of the race,
31 creed, color, national origin, ancestry, age, sex, affectional or sexual
32 orientation, marital status, liability for service in the Armed Forces of
33 the United States, disability or nationality of that person or that
34 person's spouse, partners, members, stockholders, directors, officers,
35 managers, superintendents, agents, employees, business associates,
36 suppliers, or customers, in order that the economic prosperity and
37 general welfare of the inhabitants of the State may be protected and
38 ensured.

39 The Legislature further finds that because of discrimination, people
40 suffer personal hardships, and the State suffers a grievous harm. The
41 personal hardships include: economic loss; time loss; physical and
42 emotional stress; and in some cases severe emotional trauma, illness,
43 homelessness or other irreparable harm resulting from the strain of
44 employment controversies; relocation, search and moving difficulties;
45 anxiety caused by lack of information, uncertainty, and resultant
46 planning difficulty; career, education, family and social disruption; and

1 adjustment problems, which particularly impact on those protected by
2 this act. Such harms have, under the common law, given rise to legal
3 remedies, including compensatory and punitive damages. The
4 Legislature intends that such damages be available to all persons
5 protected by this act and that this act shall be liberally construed in
6 combination with other protections available under the laws of this
7 State.

8 (cf: P.L.1992, c.146, s.1)

9

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

12 4. All persons shall have the opportunity to obtain employment,
13 and to obtain all the accommodations, advantages, facilities, and
14 privileges of any place of public accommodation, publicly assisted
15 housing accommodation, and other real property without
16 discrimination because of race, creed, color, national origin, ancestry,
17 age, marital status, affectional or sexual orientation, familial status,
18 disability, nationality, sex or source of lawful income used for rental
19 or mortgage payments, subject only to conditions and limitations
20 applicable alike to all persons. This opportunity is recognized as and
21 declared to be a civil right.

22 (cf: P.L.2002, c.82, s.1)

23

24 5. Section 2 of P.L.1972, c.114 (C.10:5-4.1) is amended to read as
25 follows:

26 2. All of the provisions of the act to which this act is a supplement
27 shall be construed to prohibit any unlawful discrimination against any
28 person because such person is or has been at any time **[handicapped]**
29 disabled or any unlawful employment practice against such person,
30 unless the nature and extent of the **[handicap]** disability reasonably
31 precludes the performance of the particular employment. It shall be
32 unlawful discrimination under the "Law Against Discrimination,"
33 P.L.1945, c.169 (C.10:5-1 et seq.) to discriminate against any buyer
34 or renter because of the **[handicap]** disability of a person residing in
35 or intending to reside in a dwelling after it is sold, rented or made
36 available or because of any person associated with the buyer or renter.

37 (cf: P.L.1992, c.146, s.3)

38

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

41 5. As used in this act, unless a different meaning clearly appears
42 from the context:

43 a. "Person" includes one or more individuals, partnerships,
44 associations, organizations, labor organizations, corporations, legal
45 representatives, trustees, trustees in bankruptcy, receivers, and
46 fiduciaries.

- 1 b. "Employment agency" includes any person undertaking to
2 procure employees or opportunities for others to work.
- 3 c. "Labor organization" includes any organization which exists and
4 is constituted for the purpose, in whole or in part, of collective
5 bargaining, or of dealing with employers concerning grievances, terms
6 or conditions of employment, or of other mutual aid or protection in
7 connection with employment.
- 8 d. "Unlawful employment practice" and "unlawful discrimination"
9 include only those unlawful practices and acts specified in section 11
10 of this act.
- 11 e. "Employer" includes all persons as defined in subsection a. of
12 this section unless otherwise specifically exempt under another section
13 of this act, and includes the State, any political or civil subdivision
14 thereof, and all public officers, agencies, boards or bodies.
- 15 f. "Employee" does not include any individual employed in the
16 domestic service of any person.
- 17 g. "Liability for service in the Armed Forces of the United States"
18 means subject to being ordered as an individual or member of an
19 organized unit into active service in the Armed Forces of the United
20 States by reason of membership in the National Guard, naval militia or
21 a reserve component of the Armed Forces of the United States, or
22 subject to being inducted into such armed forces through a system of
23 national selective service.
- 24 h. "Division" means the "Division on Civil Rights" created by this
25 act.
- 26 i. "Attorney General" means the Attorney General of the State of
27 New Jersey or his representative or designee.
- 28 j. "Commission" means the Commission on Civil Rights created by
29 this act.
- 30 k. "Director" means the Director of the Division on Civil Rights.
- 31 l. "A place of public accommodation" shall include, but not be
32 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
33 camp, day camp, or resort camp, whether for entertainment of
34 transient guests or accommodation of those seeking health, recreation
35 or rest; any producer, manufacturer, wholesaler, distributor, retail
36 shop, store, establishment, or concession dealing with goods or
37 services of any kind; any restaurant, eating house, or place where food
38 is sold for consumption on the premises; any place maintained for the
39 sale of ice cream, ice and fruit preparations or their derivatives, soda
40 water or confections, or where any beverages of any kind are retailed
41 for consumption on the premises; any garage, any public conveyance
42 operated on land or water, or in the air, any stations and terminals
43 thereof; any bathhouse, boardwalk, or seashore accommodation; any
44 auditorium, meeting place, or hall; any theatre, motion-picture house,
45 music hall, roof garden, skating rink, swimming pool, amusement and
46 recreation park, fair, bowling alley, gymnasium, shooting gallery,

1 billiard and pool parlor, or other place of amusement; any comfort
2 station; any dispensary, clinic or hospital; any public library; any
3 kindergarten, primary and secondary school, trade or business school,
4 high school, academy, college and university, or any educational
5 institution under the supervision of the State Board of Education, or
6 the Commissioner of Education of the State of New Jersey. Nothing
7 herein contained shall be construed to include or to apply to any
8 institution, bona fide club, or place of accommodation, which is in its
9 nature distinctly private; nor shall anything herein contained apply to
10 any educational facility operated or maintained by a bona fide religious
11 or sectarian institution, and the right of a natural parent or one in loco
12 parentis to direct the education and upbringing of a child under his
13 control is hereby affirmed; nor shall anything herein contained be
14 construed to bar any private secondary or post secondary school from
15 using in good faith criteria other than race, creed, color, national
16 origin, ancestry or affectional or sexual orientation in the admission of
17 students.

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

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

46 o. "Real estate broker" includes a person, firm or corporation who,

1 for a fee, commission or other valuable consideration, or by reason of
2 promise or reasonable expectation thereof, lists for sale, sells,
3 exchanges, buys or rents, or offers or attempts to negotiate a sale,
4 exchange, purchase, or rental of real estate or an interest therein, or
5 collects or offers or attempts to collect rent for the use of real estate,
6 or solicits for prospective purchasers or assists or directs in the
7 procuring of prospects or the negotiation or closing of any transaction
8 which does or is contemplated to result in the sale, exchange, leasing,
9 renting or auctioning of any real estate, or negotiates, or offers or
10 attempts or agrees to negotiate a loan secured or to be secured by
11 mortgage or other encumbrance upon or transfer of any real estate for
12 others; or any person who, for pecuniary gain or expectation of
13 pecuniary gain conducts a public or private competitive sale of lands
14 or any interest in lands. In the sale of lots, the term "real estate
15 broker" shall also include any person, partnership, association or
16 corporation employed by or on behalf of the owner or owners of lots
17 or other parcels of real estate, at a stated salary, or upon a
18 commission, or upon a salary and commission or otherwise, to sell
19 such real estate, or any parts thereof, in lots or other parcels, and who
20 shall sell or exchange, or offer or attempt or agree to negotiate the
21 sale or exchange, of any such lot or parcel of real estate.

22 p. "Real estate salesperson" includes any person who, for
23 compensation, valuable consideration or commission, or other thing of
24 value, or by reason of a promise or reasonable expectation thereof, is
25 employed by and operates under the supervision of a licensed real
26 estate broker to sell or offer to sell, buy or offer to buy or negotiate
27 the purchase, sale or exchange of real estate, or offers or attempts to
28 negotiate a loan secured or to be secured by a mortgage or other
29 encumbrance upon or transfer of real estate, or to lease or rent, or
30 offer to lease or rent any real estate for others, or to collect rents for
31 the use of real estate, or to solicit for prospective purchasers or lessees
32 of real estate, or who is employed by a licensed real estate broker to
33 sell or offer to sell lots or other parcels of real estate, at a stated
34 salary, or upon a commission, or upon a salary and commission, or
35 otherwise to sell real estate, or any parts thereof, in lots or other
36 parcels.

37 q. ["Handicapped"] "Disability" means [suffering from] physical
38 disability, infirmity, malformation or disfigurement which is caused by
39 bodily injury, birth defect or illness including epilepsy, and which shall
40 include, but not be limited to, any degree of paralysis, amputation, lack
41 of physical coordination, blindness or visual impediment, deafness or
42 hearing impediment, muteness or speech impediment or physical
43 reliance on a service or guide dog, wheelchair, or other remedial
44 appliance or device, or [from] any mental, psychological or
45 developmental disability resulting from anatomical, psychological,
46 physiological or neurological conditions which prevents the normal

1 exercise of any bodily or mental functions or is demonstrable,
2 medically or psychologically, by accepted clinical or laboratory
3 diagnostic techniques. [Handicapped] Disability shall also mean
4 [suffering from] AIDS or HIV infection.

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

10 s. "Guide dog" means a dog used to assist deaf persons or which
11 is fitted with a special harness so as to be suitable as an aid to the
12 mobility of a blind person, and is used by a blind person who has
13 satisfactorily completed a specific course of training in the use of such
14 a dog, and has been trained by an organization generally recognized by
15 agencies involved in the rehabilitation of the blind or deaf as reputable
16 and competent to provide dogs with training of this type.

17 t. "Guide or service dog trainer" means any person who is
18 employed by an organization generally recognized by agencies
19 involved in the rehabilitation of [the blind, handicapped or deaf]
20 persons with disabilities as reputable and competent to provide dogs
21 with training, and who is actually involved in the training process.

22 u. "Housing accommodation" means any publicly assisted housing
23 accommodation or any real property, or portion thereof, which is used
24 or occupied, or is intended, arranged, or designed to be used or
25 occupied, as the home, residence or sleeping place of one or more
26 persons, but shall not include any single family residence the occupants
27 of which rent, lease, or furnish for compensation not more than one
28 room therein.

29 v. "Public facility" means any place of public accommodation and
30 any street, highway, sidewalk, walkway, public building, and any other
31 place or structure to which the general public is regularly, normally or
32 customarily permitted or invited.

33 w. "Deaf person" means any person whose hearing is so severely
34 impaired that the person is unable to hear and understand normal
35 conversational speech through the unaided ear alone, and who must
36 depend primarily on a supportive device or visual communication such
37 as writing, lip reading, sign language, and gestures.

38 x. "Atypical hereditary cellular or blood trait" means sickle cell
39 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
40 fibrosis trait.

41 y. "Sickle cell trait" means the condition wherein the major natural
42 hemoglobin components present in the blood of the individual are
43 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
44 defined by standard chemical and physical analytic techniques,
45 including electrophoresis; and the proportion of hemoglobin A is
46 greater than the proportion of hemoglobin S or one natural parent of

1 the individual is shown to have only normal hemoglobin components
2 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
3 proportions by standard chemical and physical analytic tests.

4 z. "Hemoglobin C trait" means the condition wherein the major
5 natural hemoglobin components present in the blood of the individual
6 are hemoglobin A (normal) and hemoglobin C as defined by standard
7 chemical and physical analytic techniques, including electrophoresis;
8 and the proportion of hemoglobin A is greater than the proportion of
9 hemoglobin C or one natural parent of the individual is shown to have
10 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
11 hemoglobin F) in normal proportions by standard chemical and
12 physical analytic tests.

13 aa. "Thalassemia trait" means the presence of the thalassemia gene
14 which in combination with another similar gene results in the chronic
15 hereditary disease Cooley's anemia.

16 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
17 which in combination with another similar gene results in the chronic
18 hereditary disease Tay-Sachs.

19 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
20 gene which in combination with another similar gene results in the
21 chronic hereditary disease cystic fibrosis.

22 dd. "Service dog" means any dog individually trained to [a
23 handicapped person's requirements] the requirements of a person with
24 a disability including, but not limited to minimal protection work,
25 rescue work, pulling a wheelchair or retrieving dropped items.

26 ee. "Qualified Medicaid applicant" means an individual who is a
27 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

28 ff. "AIDS" means acquired immune deficiency syndrome as defined
29 by the Centers for Disease Control of the United States Public Health
30 Service.

31 gg. "HIV infection" means infection with the human
32 immunodeficiency virus or any other related virus identified as a
33 probable causative agent of AIDS.

34 hh. "Affectional or sexual orientation" means male or female
35 heterosexuality, homosexuality or bisexuality by inclination, practice,
36 identity or expression, having a history thereof or being perceived,
37 presumed or identified by others as having such an orientation.

38 ii. "Heterosexuality" means affectional, emotional or physical
39 attraction or behavior which is primarily directed towards persons of
40 the other gender.

41 jj. "Homosexuality" means affectional, emotional or physical
42 attraction or behavior which is primarily directed towards persons of
43 the same gender.

44 kk. "Bisexuality" means affectional, emotional or physical
45 attraction or behavior which is directed towards persons of either
46 gender.

1 ll. "Familial status" means being the natural parent of a child, the
2 adoptive parent of a child, the foster parent of a child, having a "parent
3 and child relationship" with a child as defined by State law, or having
4 sole or joint legal or physical custody, care, guardianship, or visitation
5 with a child, or any person who is pregnant or is in the process of
6 securing legal custody of any individual who has not attained the age
7 of 18 years.

8 mm. "Housing for older persons" means housing:

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

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

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

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

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

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

33 Housing shall not fail to meet the requirements for housing for
34 older persons by reason of: persons residing in such housing as of
35 [March 12, 1989] September 13, 1988 not meeting the age
36 requirements of this subsection, provided that new occupants of such
37 housing meet the age requirements of this subsection; or unoccupied
38 units, provided that such units are reserved for occupancy by persons
39 who meet the age requirements of this subsection.

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

45 oo. "Genetic information" means the information about genes, gene
46 products or inherited characteristics that may derive from an individual

1 or family member.

2 pp. "Genetic test" means a test for determining the presence or
3 absence of an inherited genetic characteristic in an individual, including
4 tests of nucleic acids such as DNA, RNA and mitochondrial DNA,
5 chromosomes or proteins in order to identify a predisposing genetic
6 characteristic.

7 (cf: P.L.1996, c.126, s.4)

8

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

11 6. There is created in the Department of Law and Public Safety a
12 division known as "The Division on Civil Rights" with power to
13 prevent and eliminate discrimination in the manner prohibited by this
14 act against persons because of race, creed, color, national origin,
15 ancestry, age, marital status, affectional or sexual orientation, familial
16 status, nationality, disability, or sex or because of their liability for
17 service in the Armed Forces of the United States, by employers, labor
18 organizations, employment agencies or other persons and to take other
19 actions against discrimination because of race, creed, color, national
20 origin, ancestry, marital status, sex, familial status nationality,
21 disability, or age or because of their liability for service in the Armed
22 Forces of the United States, as herein provided; and the division
23 created hereunder is given general jurisdiction and authority for such
24 purposes.

25 (cf: P.L.1992, c.146, s.5)

26

27 8. Section 8 of P.L.1945, c.169 (C.10:5-8) is amended to read as
28 follows:

29 8. The Attorney General shall:

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

31 b. Administer the work of the division.

32 c. Organize the division into sections, which shall include but not
33 be limited to a section which shall receive, investigate, and act upon
34 complaints alleging discrimination against persons because of race,
35 creed, color, national origin, ancestry, age, marital status, affectional
36 or sexual orientation, familial status, disability, nationality or sex or
37 because of their liability for service in the Armed Forces of the United
38 States; and another which shall, in order to eliminate prejudice and to
39 further good will among the various racial and religious and nationality
40 groups in this State, study, recommend, prepare and implement, in
41 cooperation with such other departments of the State Government or
42 any other agencies, groups or entities both public and private, such
43 educational and human relations programs as are consonant with the
44 objectives of this act; and prescribe the organization of said sections
45 and the duties of his subordinates and assistants.

46 d. Appoint a Director of the Division on Civil Rights, who shall act

1 for the Attorney General, in the Attorney General's place and with the
2 Attorney General's powers, which appointment shall be subject to the
3 approval of the commission and the Governor, a deputy director and
4 such assistant directors, field representatives and assistants as may be
5 necessary for the proper administration of the division and fix their
6 compensation within the limits of available appropriations. The
7 director, deputy director, assistant directors, field representatives and
8 assistants shall not be subject to the Civil Service Act and shall be
9 removable by the Attorney General at will.

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

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

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

17 h. Conduct investigations, receive complaints and conduct hearings
18 thereon other than those complaints received and hearings held
19 pursuant to the provisions of this act.

20 i. In connection with any investigation or hearing held pursuant to
21 the provisions of this act, subpoena witnesses, compel their
22 attendance, administer oaths, take the testimony of any person, under
23 oath, and, in connection therewith, require the production for
24 examination of any books or papers relating to any subject matter
25 under investigation or in question by the division and conduct such
26 discovery procedures which may include the taking of interrogatories
27 and oral depositions as shall be deemed necessary by the Attorney
28 General in any investigation. The Attorney General may make rules
29 as to the issuance of subpoenas by the director. The failure of any
30 witness when duly subpoenaed to attend, give testimony, or produce
31 evidence shall be punishable by the Superior Court of New Jersey in
32 the same manner as such failure is punishable by such court in a case
33 therein pending.

34 j. Issue such publications and such results of investigations and
35 research tending to promote good will and to minimize or eliminate
36 discrimination because of race, creed, color, national origin, ancestry,
37 age, marital status, affectional or sexual orientation, familial status,
38 disability, nationality or sex, as the commission shall direct, subject to
39 available appropriations.

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

42 l. Appoint, subject to the approval of the commission, a panel of
43 not more than five hearing examiners, each of whom shall be duly
44 licensed to practice law in this State for a period of at least five years,
45 and each to serve for a term of one year and until his successor is
46 appointed, any one of whom the director may designate in his place to

1 conduct any hearing and recommend findings of fact and conclusions
2 of law. The hearing examiners shall receive such compensation as may
3 be determined by the Attorney General, subject to available
4 appropriations.

5 (cf: P.L.1992, c.146, s.6)

6

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

9 1. The Division on Civil Rights in the Department of Law and
10 Public Safety shall enforce the laws of this State against discrimination
11 in housing built with, or leased with the assistance of, public funds or
12 public assistance, pursuant to any law, and in real property, as defined
13 in the law hereby supplemented, because of race, religious principles,
14 color, national origin, ancestry, marital status, affectional or sexual
15 orientation, familial status, disability, nationality sex or source of
16 lawful income used for rental or mortgage payments. The said laws
17 shall be so enforced in the manner prescribed in the act to which this
18 act is a supplement.

19 (cf: P.L.2002, c.82, s.2)

20

21 10. Section 13 of P.L.1992, c.146 (C.10:5-9.2) is amended to read
22 as follows:

23 13. The provisions of this amendatory and supplementary act,
24 P.L.1992, c.146 (C.10:5-12.4 et al.), and P.L. , c. (now before the
25 Legislature as this bill), are intended to permit the Division on Civil
26 Rights in the Department of Law and Public Safety to qualify as a
27 "certified agency" within the meaning of the Federal Fair Housing
28 Amendments Act, Pub.L. 100-430 (42 U.S.C. s.3610 (f)), and shall be
29 construed as consistent with that purpose. Nothing in [this
30 amendatory and supplementary act,] P.L.1992, c.146 (C.10:5-12.4 et
31 al.) and P.L. , c. (now before the Legislature as this bill), shall be
32 construed to permit conduct prohibited by the "Law Against
33 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), prior to the
34 effective date of [this act, nor is it intended to be construed to prohibit
35 conduct now permitted] of P.L. , c. (now before the Legislature
36 as this bill).

37 (cf: P.L.1992, c.146, s.13)

38

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

41 9. The commission shall:

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

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

45 c. Report to the Governor and the Legislature with respect to such
46 matters relating to the work of the division and at such times as it may

1 deem in the public interest.

2 The mayors or chief executive officers of the municipalities in the
3 State may appoint local commissions on civil rights to aid in
4 effectuating the purposes of this act. Such local commissions shall be
5 composed of representative citizens serving without compensation.
6 Such commissions shall attempt to foster through community effort or
7 otherwise, good will, cooperation and conciliation among the groups
8 and elements of the inhabitants of the community, and they may be
9 empowered by the local governing bodies to make recommendations
10 to them for the development of policies and procedures in general and
11 for programs of formal and informal education that will aid in
12 eliminating all types of discrimination based on race, creed, color,
13 national origin, ancestry, age, marital status, affectional or sexual
14 orientation, familial status, disability, nationality or sex.
15 (cf: P.L.1992, c.146, s.8)

16

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

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

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

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

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

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

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

46 d. For any person to take reprisals against any person because that

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

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

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

42 (2) Notwithstanding the definition of "public accommodation " as
43 set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-5),
44 for any owner, lessee, proprietor, manager, superintendent, agent, or
45 employee of any private club or association to directly or indirectly
46 refuse, withhold from or deny to any individual who has been accepted

1 as a club member and has contracted for or is otherwise entitled to full
2 club membership any of the accommodations, advantages, facilities or
3 privileges thereof, or to discriminate against any member in the
4 furnishing thereof on account of the race, creed, color, national origin,
5 ancestry, marital status, sex, affectional or sexual orientation, disability
6 or nationality of such person.

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

15 g. For ~~[the] any person, including but not limited to, any~~ owner,
16 lessee, sublessee, assignee or managing agent of, or other person
17 having the right of ownership or possession of or the right to sell, rent,
18 lease, assign, or sublease any real property or part or portion thereof,
19 or any agent or employee of any of these:

20 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
21 to deny to or withhold from any person or group of persons any real
22 property or part or portion thereof because of ~~[the]~~ race, creed, color,
23 national origin, ancestry, marital status, sex, affectional or sexual
24 orientation, familial status, disability, nationality, or source of lawful
25 income used for rental or mortgage payments ~~[of such person or~~
26 ~~group of persons]~~;

27 (2) To discriminate against any person or group of persons because
28 of ~~[the]~~ race, creed, color, national origin, ancestry, marital status,
29 sex, affectional or sexual orientation, familial status, disability,
30 nationality or source of lawful income used for rental or mortgage
31 payments ~~[of such person or group of persons]~~ in the terms,
32 conditions or privileges of the sale, rental or lease of any real property
33 or part or portion thereof or in the furnishing of facilities or services
34 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 or
37 mailed any statement, advertisement, publication or sign, or to use any
38 form of application for the purchase, rental, lease, assignment or
39 sublease of any real property or part or portion thereof, or to make
40 any record or inquiry in connection with the prospective purchase,
41 rental, lease, assignment, or sublease of any real property, or part or
42 portion thereof which expresses, directly or indirectly, any limitation,
43 specification or discrimination as to race, creed, color, national origin,
44 ancestry, marital status, sex, affectional or sexual orientation, familial
45 status, disability, nationality, or source of lawful income used for
46 rental or mortgage payments, or any intent to make any such

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

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

17 (5) To refuse to rent or lease any real property to another person
18 because that person's family includes children under 18 years of age,
19 or to make an agreement, rental or lease of any real property which
20 provides that the agreement, rental or lease shall be rendered null and
21 void upon the birth of a child. This paragraph shall not apply to [any
22 county, State or Federally financed or assisted housing project
23 constructed for occupancy by senior citizens or to any property
24 located in a retirement subdivision as defined in the "Retirement
25 Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et
26 seq.), to any] housing for older persons [or to any unit in a planned
27 real estate development that is age-restricted and subject to the
28 provisions of the "Planned Real Estate Development Full Disclosure
29 Act," P.L.1977, c.419 (C.45:22A-21 et seq.).] as defined in subsection
30 mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

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

33 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
34 sale, rental, lease, assignment, or sublease any real property or part or
35 portion thereof to any person or group of persons or to refuse to
36 negotiate for the sale, rental, lease, assignment, or sublease of any real
37 property or part or portion thereof to any person or group of persons
38 because of [the] race, creed, color, national origin, ancestry, marital
39 status, familial status, sex, affectional or sexual orientation, disability,
40 nationality, or source of lawful income used for rental or mortgage
41 payments [of such person or group of persons], or to represent that
42 any real property or portion thereof is not available for inspection,
43 sale, rental, lease, assignment, or sublease when in fact it is so
44 available, or otherwise to deny or withhold any real property or any
45 part or portion of facilities thereof to or from any person or group of
46 persons because of [the] race, creed, color, national origin, ancestry,

1 marital status, familial status, sex, affectional or sexual orientation ,
2 disability or nationality [of such person or group of persons];

3 (2) To discriminate against any person because of [his] race,
4 creed, color, national origin, ancestry, marital status, familial status,
5 sex, affectional or sexual orientation, disability, nationality, or source
6 of lawful income used for rental or mortgage payments in the terms,
7 conditions or privileges of the sale, rental, lease, assignment or
8 sublease of any real property or part or portion thereof or in the
9 furnishing of facilities or services in connection therewith;

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

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

38 (5) To refuse to rent or lease any real property to another person
39 because that person's family includes children under 18 years of age,
40 or to make an agreement, rental or lease of any real property which
41 provides that the agreement, rental or lease shall be rendered null and
42 void upon the birth of a child. This paragraph shall not apply to [any
43 county, State or Federally financed or assisted housing project
44 constructed for occupancy by senior citizens or to any property
45 located in a retirement subdivision as defined in the "Retirement
46 Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et

1 seq.), to] housing for older persons [or to any unit in a planned real
2 estate development that is age-restricted and subject to the provisions
3 of the "Planned Real Estate Development Full Disclosure Act,"
4 P.L.1977, c.419 (C.45:22A-21 et seq.)] as defined in subsection mm.
5 of section 5 of P.L.1945, c.169 (C.10:5-5).

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

15 (1) To discriminate against any person or group of persons because
16 of [the] race, creed, color, national origin, ancestry, marital status,
17 sex, affectional or sexual orientation, disability, familial status or
18 nationality [of such person or group of persons or of the prospective
19 occupants or tenants of such real property or part or portion thereof],
20 in the granting, withholding, extending, modifying [or] , renewing, or
21 purchasing, or in the fixing of the rates, terms, conditions or
22 provisions of any such loan, extension of credit or financial assistance
23 or purchase thereof or in the extension of services in connection
24 therewith;

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

35 (3) [To discriminate on the basis of familial status in any manner
36 described in paragraph (1) or (2) of this subsection with respect to any
37 real property] (Deleted by amendment, P.L. c. (C.) (now before
38 the Legislature as this bill));

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

42 (5) To discriminate against any person or group of persons because
43 that person's family includes children under 18 years of age, or to
44 make an agreement or mortgage which provides that the agreement or
45 mortgage shall be rendered null and void upon the birth of a child.

1 This paragraph shall not apply to [any county, State or Federally
2 financed or assisted housing project constructed for occupancy by
3 senior citizens or to any property located in a retirement subdivision
4 as defined in the "Retirement Community Full Disclosure Act,"
5 P.L.1969, c.215 (C.45:22A-1 et seq.), to] housing for older persons
6 [or to any unit in a planned real estate development that is
7 age-restricted and subject to the provisions of the "Planned Real
8 Estate Development Full Disclosure Act," P.L.1977, c.419
9 (C.45:22A-21 et seq.)] as defined in subsection mm. of section 5 of
10 P.L.1945, c.169 (C.10:5-5).

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

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

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

45 m. For any person to:

46 (1) Grant or accept any letter of credit or other document which

1 evidences the transfer of funds or credit, or enter into any contract for
2 the exchange of goods or services, where the letter of credit, contract,
3 or other document contains any provisions requiring any person to
4 discriminate against or to certify that he, she or it has not dealt with
5 any other person on the basis of the race, creed, color, national origin,
6 ancestry, age, sex, affectional or sexual orientation, marital status,
7 disability, liability for service in the Armed Forces of the United
8 States, or nationality of such other person or of such other person's
9 spouse, partners, members, stockholders, directors, officers, managers,
10 superintendents, agents, employees, business associates, suppliers, or
11 customers.

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

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

23 n. For any person to aid, abet, incite, compel, coerce, or induce the
24 doing of any act forbidden by subsections l. and m. of section 11 of
25 P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so.
26 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 because
30 that person does, or agrees or attempts to do, any such act or any act
31 prohibited by this subsection [n.]; or

32 (2) Boycotting, commercially blacklisting or refusing to buy from,
33 sell to, lease from or to, license, contract with, provide goods, services
34 or information to, or otherwise do business with any person because
35 that person has not done or refuses to do any such act or any act
36 prohibited by this subsection [n.]; provided that this subsection [n.]
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' organization
42 or other service, organization or facility related to the business of
43 selling or renting dwellings to deny any person access to or
44 membership or participation in such organization, or to discriminate
45 against such person in the terms or conditions of such access,
46 membership, or participation, on account of race, creed, color,

1 national origin, ancestry, age, marital status, familial status, sex,
2 affectional or sexual orientation, disability or nationality.

3 (cf: P.L.2002, c.82, s.3)

4

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

7 12. a. It shall be an unlawful discrimination for a municipality,
8 county or other local civil or political subdivision of the State of New
9 Jersey, or an officer, employee, or agent thereof, to exercise the power
10 to regulate land use or housing in a manner that discriminates on the
11 basis of race, creed, color, national origin, ancestry, marital status,
12 familial status, sex, nationality or [handicap] disability.

13 b. Notwithstanding the provisions of section 12 of P.L.1945, c.169
14 (C.10:5-13) any person claiming to be aggrieved by an unlawful
15 discrimination under this section shall enforce this section by private
16 right of action in Superior Court. This section shall not apply to
17 discrimination in housing owned or managed by a municipality, county
18 or other local civil or political subdivision of the State of New Jersey
19 where such discrimination is otherwise prohibited by section 11 of
20 P.L.1945, c.169 (C.10:5-12).

21 (cf: P.L.1992, c.146, s.12)

22

23 14. Section 13 of P.L.1945, c.169 (C.10:5-14) is amended to read
24 as follows:

25 13. After the filing of any complaint, the Attorney General shall
26 cause prompt investigation to be made in connection therewith and
27 advise the complainant of the results thereof. [If the Attorney General
28 shall determine after such investigation that probable cause exists for
29 crediting the allegations of the complaint, the Attorney General shall
30 immediately endeavor to eliminate the unlawful employment practice
31 or the unlawful discrimination complained of by conference,
32 conciliation and persuasion during a period terminating not later than
33 45 days from the date of the finding of probable cause.] During the
34 period beginning with the filing of such complaint and ending with the
35 closure of the case or 45 days from the date of a finding of probable
36 cause, the Attorney General shall, to the extent feasible, engage in
37 conciliation with respect to such complaint. Neither the Attorney
38 General nor any officer or employee of the division shall disclose any
39 conversation between the Attorney General or a representative and the
40 respondent or a representative at such conference, except that the
41 Attorney General and any officer or employee may disclose the terms
42 of a settlement offer to the complainant or other aggrieved person on
43 whose behalf the complaint was filed.

44 (cf: P.L.1992, c.146, s.10)

45

46 15. Section 15 of P.L.1945, c.169 (C.10:5-16) is amended to read

1 as follows:

2 15. [The] When the director has issued a finding of probable
3 cause, the case in support of the complaint shall be presented before
4 the director by the attorney for the division and evidence concerning
5 attempted conciliation shall not be received. The respondent shall file
6 a written verified answer to the complaint and appear at such hearing
7 in person or by representative, with or without counsel, and submit
8 testimony. [In the discretion of the director, the] The complainant
9 [may] shall be allowed to intervene and present testimony in person
10 and may be represented by counsel. The director or the complainant
11 shall have the power reasonably and fairly to amend any complaint,
12 and the respondent shall have like power to amend his answer. The
13 director shall not be bound by the strict rules of evidence prevailing in
14 civil actions in courts of competent jurisdiction of this State. The
15 testimony taken at the hearing shall be under oath and a verbatim
16 record shall be made. When the director has issued a finding of
17 probable cause in a housing discrimination complaint only, any party
18 to that complaint may elect, in lieu of the administrative proceeding set
19 forth in this section, to have the claim asserted in the finding of
20 probable cause adjudicated in a civil action in Superior Court pursuant
21 to section 12 of P.L.1945, c.169 (C.10:5-13). Such an election shall
22 be made not later than 20 days after receipt of the finding of probable
23 cause. Upon such election, the attorney for the division shall promptly
24 file such an action in Superior Court. Upon application to the court
25 wherein the matter is pending, the complainant shall be permitted to
26 intervene and present testimony in person and may be represented by
27 counsel.

28 (cf: P.L.1980, c.71, s.1)

29

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

32 16. If, upon all evidence at the hearing, the director shall find that
33 the respondent has engaged in any unlawful employment practice or
34 unlawful discrimination as defined in this act, the director shall state
35 his findings of fact and conclusions of law and shall issue and cause to
36 be served on such respondent an order requiring such respondent to
37 cease and desist from such unlawful employment practice or unlawful
38 discrimination and to take such affirmative action, including, but not
39 limited to, hiring, reinstatement or upgrading of employees, with or
40 without back pay, or restoration to membership, in any respondent
41 labor organization, or extending full and equal accommodations,
42 advantages, facilities, and privileges to all persons, as, in the judgment
43 of the director, will effectuate the purpose of this act, and including a
44 requirement for report of the manner of compliance. If the conduct
45 violative of this act constitutes any form of unlawful economic
46 discrimination prohibited in section 11, subsections 1., m., and n. of

1 this act, the affirmative action taken by the director may include the
2 award of three-fold damages to the person or persons aggrieved by the
3 violation. The director shall have the power to use reasonably certain
4 bases, including but not limited to list, catalogue or market prices or
5 values, or contract or advertised terms and conditions, in order to
6 determine particulars or performance in giving appropriate remedy.
7 In addition to any other remedies provided by P.L.1945, c.169
8 (C.10:5-1 et seq.), a prevailing complainant may recover damages to
9 compensate for emotional distress caused by the activities found to be
10 in violation of P.L.1945, c.169 (C.10:5-1 et seq.) to the same extent
11 as is available in common law tort actions. In any case in which the
12 director, Attorney General, or appropriate organization is a
13 complainant, on behalf of named or unnamed individuals or a class of
14 individuals, any of the remedies or relief allowed by this act may be
15 awarded or applied to the named or unnamed individual victims of
16 discrimination. If, upon all evidence, the director shall find that the
17 respondent has not engaged in any such unlawful practice or unlawful
18 discrimination, the director shall state his findings of fact and
19 conclusions of law and shall issue and cause to be served on the
20 complainant an order dismissing the said complaint as to such
21 respondent.

22 (cf: P.L.1979, c.404, s.3)

23

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

26 26. The provisions of this act shall be construed fairly and justly
27 with due regard to the interests of all parties. Nothing contained in
28 this act shall be deemed to repeal any of the provisions of the Civil
29 Rights Law or of any other law of this State relating to discrimination
30 because of race, creed, color, national origin, ancestry, marital status,
31 affectional or sexual orientation, disability, nationality or sex or
32 liability for service in the Armed Forces of the United States; except
33 that, as to practices and acts declared unlawful by section 11 of this
34 act, the procedure herein provided shall, while pending, be exclusive;
35 and the final determination therein shall exclude any other action, civil
36 or criminal, based on the same grievance of the individual concerned.
37 Nothing herein contained shall bar, exclude or otherwise affect any
38 right or action, civil or criminal, which may exist independently of any
39 right to redress against or specific relief from any unlawful
40 employment practice or unlawful discrimination. With respect only to
41 affectional or sexual orientation, nothing contained herein shall be
42 construed to require the imposition of affirmative action, plans or
43 quotas as specific relief from an unlawful employment practice or
44 unlawful discrimination.

45 (cf: P.L.1991, c.519, s.9)

1 18. Section 1 of P.L.1971, c.130 (C.10:5-29) is amended to read
2 as follows:

3 1. Any [handicapped, blind or deaf] person with a disability
4 accompanied by a service or guide dog trained by a recognized
5 training agency or school is entitled, with his dog, to the full and equal
6 enjoyment, advantages, facilities and privileges of all public facilities,
7 subject only to the following conditions:

8 a. A [handicapped, blind or deaf] person with a disability, if
9 accompanied by a service or guide dog, shall keep such dog in his
10 immediate custody at all times;

11 b. A [handicapped, blind or deaf] person with a disability
12 accompanied by a service or guide dog shall not be charged any extra
13 fee or payment for admission to or use of any public facility;

14 c. A [handicapped, blind or deaf] person with a disability who has
15 a service or guide dog in his possession shall be liable for any damages
16 done to the premises of a public facility by such dog.

17 d. (Deleted by amendment; P.L.1981, c. 391.)

18 (cf: P.L.1983, c.485, s.4)

19

20 19. Section 3 of P.L.1977, c.456 (C.10:5-29.1) is amended to read
21 as follows:

22 3. Unless it can be clearly shown that a person's [handicap,
23 blindness or deafness] disability would prevent such person from
24 performing a particular job, it is an unlawful employment practice to
25 deny to an otherwise qualified [handicapped, blind or deaf] person
26 with a disability the opportunity to obtain or maintain employment, or
27 to advance in position in his job, solely because such person is
28 [handicapped, blind or deaf] a person with a disability or because such
29 person is accompanied by a service or guide dog.

30 (cf: P.L.1983, c.485, s.5)

31

32 20. Section 4 of P.L.1977, c.456 (C.10:5-29.2) is amended to read
33 as follows:

34 4. A [handicapped, blind or deaf] person with a disability is
35 entitled to rent, lease or purchase, as other members of the general
36 public, all housing accommodations offered for rent, lease, or
37 compensation in this State, subject to the rights, conditions and
38 limitations established by law [and applicable alike to all persons].
39 Nothing in this section shall require any person renting, leasing or
40 providing for compensation real property, to modify such property in
41 any way to provide a higher degree of care for a [handicapped, blind
42 or deaf] person with a disability than for any other person. A
43 [handicapped, blind or deaf] person with a disability who has a service
44 or guide dog, or who obtains a service or guide dog, shall be entitled
45 to full and equal access to all housing accommodations and shall not

1 be required to pay extra compensation for such service or guide dog,
2 but shall be liable for any damages done to the premises by such dog.
3 Any provision in any lease or rental agreement prohibiting maintenance
4 of a pet or pets on or in the premises shall not be applicable to a
5 service or guide dog owned by a [handicapped, blind or deaf] tenant
6 who is a person with a disability.

7 (cf: P.L.1983, c.485, s.6)

8

9 21. Section 5 of P.L.1977, c.456 (C.10:5-29.3) is amended to read
10 as follows:

11 5. A service or guide dog trainer, while engaged in the actual
12 training process and activities of service dogs or guide dogs, shall have
13 the same rights and privileges with respect to access to public
14 facilities, and the same responsibilities as are applicable to a
15 [handicapped, blind or deaf] person with a disability.

16 (cf: P.L.1983, c.485, s.7)

17

18 22. Section 6 of P.L.1977, c.456 (C.10:5-29.4) is amended to read
19 as follows:

20 6. A [blind] person with a disability accompanied by a guide dog,
21 or a guide dog instructor engaged in instructing a guide dog, shall
22 have the right-of-way over vehicles while crossing a highway or any
23 intersection thereof, as provided in section 1 of P.L.1939, c.274
24 (C.39:4-37.1).

25 (cf: P.L.1999, c.264, s.1)

26

27 23. Section 9 of P.L.1980, c.46 (C.10:5-29.6) is amended to read
28 as follows:

29 9. Whenever the law accords rights and privileges to or imposes
30 conditions and restrictions upon blind persons with respect to their use
31 of dogs to countervail their [handicap] disability, and known and
32 described as "seeing eye" dogs, those rights, privileges, conditions
33 and restrictions shall also apply to [handicapped or deaf persons]
34 persons with disabilities with respect to their use of dogs to
35 countervail their [handicap] disability, and known and described as
36 either "service dogs" or "hearing ear" dogs.

37 (cf: P.L.1983, c.485, s.8)

38

39 24. Section 1 of P.L.1975, c.127 (C.10:5-31) is amended to read
40 as follows:

41 1. As used in this act:

42 a. "Public works contract" means any contract to be performed for
43 or on behalf of the State or any county or municipality or other
44 political subdivision of the State, or any agency or authority created
45 by any of the foregoing, for the construction, alteration or repair of
46 any building or public work or for the acquisition of materials,

1 equipment, supplies or services with respect to which discrimination
2 in the hiring of persons for the performance of work thereunder or
3 under any subcontract thereunder by reason of race, creed, color,
4 national origin, ancestry, marital status, affectional or sexual
5 orientation, nationality, disability or sex is prohibited under
6 R.S.10:2-1.

7 b. "Equal employment opportunity" means equality in opportunity
8 for employment by any contractor, subcontractor or business firm
9 engaged in the carrying out of a public works project including its
10 development, design, acquisition, construction, management and
11 operation.

12 (cf: P.L.1991, c.519, s.11)

13

14 25. Section 3 of P.L.1975, c.127 (C.10:5-33) is amended to read
15 as follows:

16 3. The State or any county or municipality or other political
17 subdivision of the State, or any agency of or authority created by any
18 of the foregoing, shall include in the bid specifications and the contract
19 provisions of any public works contract the following language:

20 "During the performance of this contract, the contractor agrees as
21 follows:

22 a. The contractor or subcontractor, where applicable, will not
23 discriminate against any employee or applicant for employment
24 because of age, race, creed, color, national origin, ancestry, marital
25 status, affectional or sexual orientation, disability, nationality or sex.
26 Except with respect to affectional or sexual orientation, the contractor
27 will take affirmative action to ensure that such applicants are recruited
28 and employed, and that employees are treated during employment,
29 without regard to their age, race, creed, color, national origin,
30 ancestry, marital status, affectional or sexual orientation, disability,
31 nationality or sex. Such action shall include, but not be limited to the
32 following: employment, upgrading, demotion, or transfer; recruitment
33 or recruitment advertising; layoff or termination; rates of pay or other
34 forms of compensation; and selection for training, including
35 apprenticeship. The contractor agrees to post in conspicuous places,
36 available to employees and applicants for employment, notices to be
37 provided by the contracting officer setting forth the provisions of this
38 nondiscrimination clause;

39 b. The contractor or subcontractor, where applicable will, in all
40 solicitations or advertisements for employees placed by or on behalf
41 of the contractor, state that all qualified applicants will receive
42 consideration for employment without regard to age, race, creed,
43 color, national origin, ancestry, marital status, affectional or sexual
44 orientation, disability, nationality or sex;

45 c. The contractor or subcontractor where applicable, will send to
46 each labor union or representative of workers with which he has a

1 collective bargaining agreement or other contract or understanding, a
2 notice, to be provided by the agency contracting officer, advising the
3 labor union or workers' representative of the contractor's commitments
4 under this act and shall post copies of the notice in conspicuous places
5 available to employees and applicants for employment."

6 In soliciting bids for any public works contract the State or any
7 county or municipality or other political subdivision of the State, or
8 any agency of or authority created by any of the foregoing, shall
9 include in the advertisement and solicitation of bids the following
10 language: "Bidders are required to comply with the requirements of
11 P.L.1975, c.127."

12 (cf: P.L.1991, c.519, s.13)

13

14 26. Section 12 of P.L.1979, c.150 (C.27:25-12) is amended to read
15 as follows:

16 a. The corporation shall formulate and abide by an
17 affirmative-action program of equal opportunity whereby it will
18 provide equal employment opportunity to rehabilitated offenders and
19 members of minority groups qualified in all employment categories,
20 including [the handicapped] persons with disabilities, in accordance
21 with the provisions of the "Law Against Discrimination," P.L.1945,
22 c.169 (C.10:5-1 et seq.), except in the case of the mentally
23 [handicapped] disabled, if it can be clearly shown that such
24 [handicap] disability would prevent such person from performing a
25 particular job.

26 b. Contracts and subcontracts to be awarded by the corporation in
27 connection with the construction, renovation or reconstruction of any
28 structure or facility owned or used by the corporation shall contain
29 appropriate provisions by which contractors and subcontractors or
30 their assignees agree to afford an equal employment opportunity to all
31 prospective employees and to all actual employees to be employed by
32 the contractor or subcontractor in accordance with an affirmative
33 action program consonant with the provisions of the "Law Against
34 Discrimination" P.L.1945, c.169 (C.10:5-1 et seq.).

35 (P.L.1979, c.150, s.12)

36

37 27. Section 2 of P.L.1994, c.176 (C.32:8-3.6) is amended to read
38 as follows:

39 2. a. The Delaware River Joint Toll Bridge Commission shall
40 formulate and abide by an affirmative action program of equal
41 opportunity whereby it will provide equal employment opportunity to
42 members of minority groups qualified in all employment categories,
43 including [the handicapped] persons with disabilities, in accordance
44 with the provisions of the "Law Against Discrimination," P.L.1945,
45 c.169 (C.10:5-1) and the "Pennsylvania Human Relations Act,"
46 number 222 of the laws of Pennsylvania of 1955, except in the case of

1 the mentally [handicapped] disabled, if it can be clearly shown that
2 such [handicap] disability would prevent such person from performing
3 a particular job.

4 b. Contracts and subcontracts to be awarded by the commission in
5 connection with the construction, renovation or reconstruction of any
6 structure or facility owned or used by the commission shall contain
7 appropriate provisions by which contractors and subcontractors or
8 their assignees agree to afford an equal employment opportunity to all
9 prospective employees and to all actual employees to be employed by
10 the contractor or subcontractor in accordance with an affirmative
11 action program consonant with the provisions of the "Law Against
12 Discrimination," P.L.1945, c.169 (C.10:5-1) and the "Pennsylvania
13 Human Relations Act," number 222 of the laws of Pennsylvania of
14 1955.

15 (cf: P.L.1994, c.176, s.2)

16

17 28. This act shall take effect on the first day of the fourth month
18 following enactment.

19

20

21

STATEMENT

22

23 This bill would amend the New Jersey "Law Against
24 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), to provide
25 substantially equivalent protections against discrimination to those
26 provided under the federal Fair Housing Act. These amendments will
27 enable the New Jersey Division on Civil Rights to achieve certification
28 by the federal Department of Housing and Urban Development
29 (HUD) as a substantially equivalent agency under the Fair Housing
30 Act, and thereby to receive federal reimbursement for the investigation
31 of housing cases, as well as to be eligible for federal funding for
32 training programs, special enforcement efforts, and partnerships with
33 private organizations. These amendments are required by HUD for
34 such certification.

35 **Disability Discrimination.** Under current law, the provisions of
36 the "Law Against Discrimination" that enumerate the categories of
37 protection under the statute do not specifically include "handicap."
38 Instead, Section 2 of P.L.1972, c.114 (C.10:5-4.1) generally provides
39 that it is unlawful to discriminate against any person because such
40 person is or has been handicapped. This bill would add "disability" to
41 each portion of the statute in which the protected categories are listed,
42 thereby providing consistency and clarity to this area of the law. The
43 bill would also substitute "disability" for "handicapped" wherever it
44 appears in the "Law Against Discrimination."

45 **Exemptions for Owner-Occupied Housing.** Under current law,
46 certain housing that is occupied by the owner or the owner's family is

1 exempt from the provisions of the "Law Against Discrimination." This
2 bill would narrow this exemption to applicable dwellings in which the
3 other unit is actually occupied by the owner.

4 **Housing for Older Persons.** Under the provisions of this bill, the
5 definition of housing for older persons would be amended in order to
6 conform to the definition under federal law. Current law defines
7 housing for older persons, in part, as housing "provided under any
8 State of federal program that the Attorney General determines is
9 specifically designed and operated to assist elderly persons ..."
10 (subsection mm. of Section 5 of P.L.1945, c.169 (C.10:5-5)). The bill
11 would clarify that the Secretary of HUD would make that designation
12 with respect to federal programs.

13 **Familial Status Exemptions.** Recent amendments to the "Law
14 Against Discrimination" pertaining to source of income protections,
15 had, in one section, the effect of broadening the exemptions from the
16 provisions prohibiting discrimination based on familial status. This bill
17 would limit that exemption to housing for older persons as already
18 defined by (subsection mm. of Section 5 of P.L.1945, c.169 (C.10:5-
19 5)).

20 **Discrimination in the Extension of Credit.** The bill would amend
21 subsection i. of Section 11 of P.L.1945, c.169 (C.10:5-12), which
22 prohibits discrimination in the extension of credit and making of loans,
23 to clarify that the prohibitions apply to loans secured by residential real
24 estate regardless of the purpose of the loan, and to the purchase of any
25 loan or extension of credit.

26 **Discrimination by Brokers' Organizations.** The bill would add
27 a new section to the "Law Against Discrimination" which would
28 prohibit multiple listing services, real estate brokers' organizations and
29 similar organizations from denying access to or membership in the
30 organizations or discriminating in the terms and conditions of such
31 access or membership on account of an individual's protected status.

32 **Conciliation Procedures.** Under this bill, Section 13 of P.L.1945,
33 c.169 (C.10:5-14) would be amended to clarify that the Division on
34 Civil Rights will attempt conciliation of cases from the time the
35 complaint is filed until closure of the case or 45 days after the finding
36 of probable cause.

37 **Election of Remedies.** This bill would provide an election of
38 remedies in housing cases in order to provide procedures equivalent
39 to those available under federal law. The bill would amend Section 15
40 of P.L.1945, c.169 (C.10:5-16) to provide that where the director of
41 the Division on Civil Rights has issued a finding of probable cause in
42 a housing case only, any party may elect, in lieu of the administrative
43 procedures set forth in the "Law Against Discrimination," to have the
44 claim asserted in a civil action in Superior Court, prosecuted by the
45 Division on Civil Rights. The bill further provides that this election
46 must be made within 20 days of receipt of the finding of probable

1 cause, and, in the discretion of the director, the complainant may be
2 allowed to intervene, present testimony, and be represented by counsel
3 in the Superior Court action. The bill does not affect the current
4 ability of the Division on Civil Rights to seek costs and attorneys fees
5 if it is a prevailing party.

6 **Compensatory Damages.** The bill would amend Section 16 of
7 P.L.1945, c.169 (C.10:5-17) to clarify that complaints in
8 administrative hearings can recover damages for emotional distress to
9 the same extent as plaintiffs in "Law Against Discrimination" actions
10 brought in Superior Court. This amendment is necessary because case
11 law suggested, in dicta, that the director's authority to award
12 compensatory damages after an administrative proceeding is limited.
13 See, Maczik v. Gilford Park Yacht Club, 271 N.J. Super. 439, 448 n.3
14 (App. Div. 1994). Under this bill, victims of discrimination would be
15 entitled to obtain equivalent remedies to compensate them for injuries
16 related to the discrimination, regardless of the forum in which they
17 filed.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3774

STATE OF NEW JERSEY

DATED: JUNE 16, 2003

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 3774.

This bill would amend the New Jersey "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), to provide substantially equivalent protections against discrimination to those provided under the federal Fair Housing Act. These amendments will enable the New Jersey Division on Civil Rights to achieve certification by the federal Department of Housing and Urban Development (HUD) as a substantially equivalent agency under the Fair Housing Act, and thereby to receive federal reimbursement for the investigation of housing cases, as well as to be eligible for federal funding for training programs, special enforcement efforts, and partnerships with private organizations. These amendments are required by HUD for such certification.

Under current law, the provisions of the "Law Against Discrimination" that enumerate the categories of protection under the statute do not specifically include "handicap." Instead, Section 2 of P.L.1972, c.114 (C.10:5-4.1) generally provides that it is unlawful to discriminate against any person because such person is or has been handicapped. This bill would add "disability" to each portion of the statute in which the protected categories are listed, thereby providing consistency and clarity to this area of the law. The bill would also substitute "disability" for "handicapped" wherever it appears in the "Law Against Discrimination." The bill also narrows the exemption applicable for owner-occupied units to dwellings in which the other unit is actually occupied by the owner. Under the bill, the definition of housing for older persons would be amended in order to conform to the definition under federal law. The bill limits familial status exemptions to those falling under the exemption to housing for older persons as already defined by subsection mm. of Section 5 of P.L.1945, c.169 (C.10:5-5).

The bill amends subsection i. of Section 11 of P.L.1945, c.169 (C.10:5-12), which prohibits discrimination in the extension of credit and making of loans, to clarify that the prohibitions apply to loans secured by residential real estate regardless of the purpose of the loan,

and to the purchase of any loan or extension of credit.

The bill would add a new section to the "Law Against Discrimination" which would prohibit multiple listing services, real estate brokers' organizations and similar organizations from denying access to or membership in the organizations or discriminating in the terms and conditions of such access or membership on account of an individual's protected status.

SENATE, No. 2454

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MAY 8, 2003

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Senator SHARPE JAMES

District 29 (Essex and Union)

Co-Sponsored by:

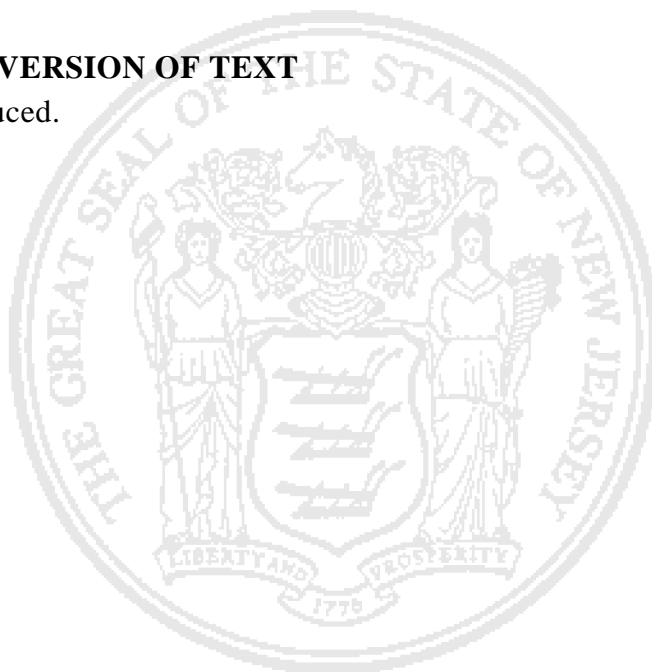
Senator Allen

SYNOPSIS

Amends "Law Against Discrimination" to provide substantially same protections against discrimination as provided under "Federal Fair Housing Act."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/24/2003)

1 AN ACT concerning the Law Against Discrimination and amending
2 various parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 7 of P.L.1990, c.55 (C.2A:42-109) is amended to read
8 as follows.

9 7. Nothing in this act shall impair the rights of a [handicapped]
10 person with disabilities to own, harbor or care for a domesticated
11 animal, including guide dogs and service dogs, in accordance with the
12 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).
13 (cf: P.L.1990,c.55,s.7)

14
15 2. Section 134 of P.L.1977, c.110 (C.5:12-134) is amended to read
16 as follows:

17 134. a. Each applicant at the time of submitting architectural
18 plans or site plans to the commission for approval of proposed
19 construction, renovation or reconstruction of any structure or facility
20 to be used as an approved hotel or casino shall accompany same with
21 a written guaranty that all contracts and subcontracts to be awarded
22 in connection therewith shall contain appropriate provisions by which
23 contractors and subcontractors or their assignees agree to afford an
24 equal employment opportunity to all prospective employees and to all
25 actual employees to be employed by the contractor or subcontractor
26 in accordance with an affirmative action program approved by the
27 commission and consonant with the provisions of the "Law Against
28 Discrimination," P.L.1945, c.169 (C. 10:5-1 et seq.). On and after the
29 effective date of this amendatory act an applicant shall also be required
30 to demonstrate that equal employment opportunities in accordance
31 with the aforesaid affirmative-action program in compliance with P.L.
32 1945, c. 169 have been afforded to all prospective employees and to
33 all actual employees employed by a contractor or subcontractor in
34 connection with the actual construction, renovation or reconstruction
35 of any structure or facility to be used as an approved hotel or casino
36 prior to submission of architectural plans or site plans to the
37 commission.

38 b. No license shall be issued by the commission to any applicant,
39 including a casino service industry as defined in section 12 of this act,
40 who has not agreed to afford an equal employment opportunity to all
41 prospective employees in accordance with an affirmative-action
42 program approved by the commission and consonant with the
43 provisions of the "Law Against Discrimination," P.L.1945, c.169
44 (C. 10:5-1 et seq.).

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

Matter underlined thus is new matter.

1 c. Each applicant shall formulate for commission approval and
2 abide by an affirmative-action program of equal opportunity whereby
3 the applicant guarantees to provide equal employment opportunity to
4 rehabilitated offenders eligible under sections 90 and 91 of this act and
5 members of minority groups qualified for licensure in all employment
6 categories, including [the handicapped] a person with a disability, in
7 accordance with the provisions of the "Law Against Discrimination,"
8 P.L.1945, c.169 (C. 10:5-1 et seq.), except in the case of the mentally
9 handicapped, if it can be clearly shown that such [handicap] disability
10 would prevent such person from performing a particular job.

11 d. Any license issued by the commission in violation of this section
12 shall be null and void.
13 (cf: P.L.1987, c.410, s.21)

14
15 3. Section 3 of P.L.1945, c.169 (C.10:5-3) is amended to read as
16 follows:

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

29 The Legislature further declares its opposition to such practices of
30 discrimination when directed against any person by reason of the race,
31 creed, color, national origin, ancestry, age, sex, affectional or sexual
32 orientation, marital status, liability for service in the Armed Forces of
33 the United States, disability or nationality of that person or that
34 person's spouse, partners, members, stockholders, directors, officers,
35 managers, superintendents, agents, employees, business associates,
36 suppliers, or customers, in order that the economic prosperity and
37 general welfare of the inhabitants of the State may be protected and
38 ensured.

39 The Legislature further finds that because of discrimination, people
40 suffer personal hardships, and the State suffers a grievous harm. The
41 personal hardships include: economic loss; time loss; physical and
42 emotional stress; and in some cases severe emotional trauma, illness,
43 homelessness or other irreparable harm resulting from the strain of
44 employment controversies; relocation, search and moving difficulties;
45 anxiety caused by lack of information, uncertainty, and resultant
46 planning difficulty; career, education, family and social disruption; and
47 adjustment problems, which particularly impact on those protected by

1 this act. Such harms have, under the common law, given rise to legal
2 remedies, including compensatory and punitive damages. The
3 Legislature intends that such damages be available to all persons
4 protected by this act and that this act shall be liberally construed in
5 combination with other protections available under the laws of this
6 State.

7 (cf: P.L.1992, c.146, s.1)

8

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

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

21 (cf: P.L.2002, c.82, s.1)

22

23 5. Section 2 of P.L.1972, c.114 (C.10:5-4.1) is amended to read as
24 follows:

25 2. All of the provisions of the act to which this act is a supplement
26 shall be construed to prohibit any unlawful discrimination against any
27 person because such person is or has been at any time [handicapped]
28 disabled or any unlawful employment practice against such person,
29 unless the nature and extent of the [handicap] disability reasonably
30 precludes the performance of the particular employment. It shall be
31 unlawful discrimination under the "Law Against Discrimination,"
32 P.L.1945, c.169 (C.10:5-1 et seq.) to discriminate against any buyer
33 or renter because of the [handicap] disability of a person residing in
34 or intending to reside in a dwelling after it is sold, rented or made
35 available or because of any person associated with the buyer or renter.

36 (cf: P.L.1992, c.146, s.3)

37

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

40 5. As used in this act, unless a different meaning clearly appears
41 from the context:

42 a. "Person" includes one or more individuals, partnerships,
43 associations, organizations, labor organizations, corporations, legal
44 representatives, trustees, trustees in bankruptcy, receivers, and
45 fiduciaries.

46 b. "Employment agency" includes any person undertaking to
47 procure employees or opportunities for others to work.

- 1 c. "Labor organization" includes any organization which exists and
2 is constituted for the purpose, in whole or in part, of collective
3 bargaining, or of dealing with employers concerning grievances, terms
4 or conditions of employment, or of other mutual aid or protection in
5 connection with employment.
- 6 d. "Unlawful employment practice" and "unlawful discrimination"
7 include only those unlawful practices and acts specified in section 11
8 of this act.
- 9 e. "Employer" includes all persons as defined in subsection a. of
10 this section unless otherwise specifically exempt under another section
11 of this act, and includes the State, any political or civil subdivision
12 thereof, and all public officers, agencies, boards or bodies.
- 13 f. "Employee" does not include any individual employed in the
14 domestic service of any person.
- 15 g. "Liability for service in the Armed Forces of the United States"
16 means subject to being ordered as an individual or member of an
17 organized unit into active service in the Armed Forces of the United
18 States by reason of membership in the National Guard, naval militia or
19 a reserve component of the Armed Forces of the United States, or
20 subject to being inducted into such armed forces through a system of
21 national selective service.
- 22 h. "Division" means the "Division on Civil Rights" created by this
23 act.
- 24 i. "Attorney General" means the Attorney General of the State of
25 New Jersey or his representative or designee.
- 26 j. "Commission" means the Commission on Civil Rights created by
27 this act.
- 28 k. "Director" means the Director of the Division on Civil Rights.
- 29 l. "A place of public accommodation" shall include, but not be
30 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
31 camp, day camp, or resort camp, whether for entertainment of
32 transient guests or accommodation of those seeking health, recreation
33 or rest; any producer, manufacturer, wholesaler, distributor, retail
34 shop, store, establishment, or concession dealing with goods or
35 services of any kind; any restaurant, eating house, or place where food
36 is sold for consumption on the premises; any place maintained for the
37 sale of ice cream, ice and fruit preparations or their derivatives, soda
38 water or confections, or where any beverages of any kind are retailed
39 for consumption on the premises; any garage, any public conveyance
40 operated on land or water, or in the air, any stations and terminals
41 thereof; any bathhouse, boardwalk, or seashore accommodation; any
42 auditorium, meeting place, or hall; any theatre, motion-picture house,
43 music hall, roof garden, skating rink, swimming pool, amusement and
44 recreation park, fair, bowling alley, gymnasium, shooting gallery,
45 billiard and pool parlor, or other place of amusement; any comfort
46 station; any dispensary, clinic or hospital; any public library; any
47 kindergarten, primary and secondary school, trade or business school,

1 high school, academy, college and university, or any educational
2 institution under the supervision of the State Board of Education, or
3 the Commissioner of Education of the State of New Jersey. Nothing
4 herein contained shall be construed to include or to apply to any
5 institution, bona fide club, or place of accommodation, which is in its
6 nature distinctly private; nor shall anything herein contained apply to
7 any educational facility operated or maintained by a bona fide religious
8 or sectarian institution, and the right of a natural parent or one in loco
9 parentis to direct the education and upbringing of a child under his
10 control is hereby affirmed; nor shall anything herein contained be
11 construed to bar any private secondary or post secondary school from
12 using in good faith criteria other than race, creed, color, national
13 origin, ancestry or affectional or sexual orientation in the admission of
14 students.

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

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

43 o. "Real estate broker" includes a person, firm or corporation who,
44 for a fee, commission or other valuable consideration, or by reason of
45 promise or reasonable expectation thereof, lists for sale, sells,
46 exchanges, buys or rents, or offers or attempts to negotiate a sale,
47 exchange, purchase, or rental of real estate or an interest therein, or

1 collects or offers or attempts to collect rent for the use of real estate,
2 or solicits for prospective purchasers or assists or directs in the
3 procuring of prospects or the negotiation or closing of any transaction
4 which does or is contemplated to result in the sale, exchange, leasing,
5 renting or auctioning of any real estate, or negotiates, or offers or
6 attempts or agrees to negotiate a loan secured or to be secured by
7 mortgage or other encumbrance upon or transfer of any real estate for
8 others; or any person who, for pecuniary gain or expectation of
9 pecuniary gain conducts a public or private competitive sale of lands
10 or any interest in lands. In the sale of lots, the term "real estate
11 broker" shall also include any person, partnership, association or
12 corporation employed by or on behalf of the owner or owners of lots
13 or other parcels of real estate, at a stated salary, or upon a
14 commission, or upon a salary and commission or otherwise, to sell
15 such real estate, or any parts thereof, in lots or other parcels, and who
16 shall sell or exchange, or offer or attempt or agree to negotiate the
17 sale or exchange, of any such lot or parcel of real estate.

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

33 q. ["Handicapped"] "Disability" means [suffering from] physical
34 disability, infirmity, malformation or disfigurement which is caused by
35 bodily injury, birth defect or illness including epilepsy, and which shall
36 include, but not be limited to, any degree of paralysis, amputation, lack
37 of physical coordination, blindness or visual impediment, deafness or
38 hearing impediment, muteness or speech impediment or physical
39 reliance on a service or guide dog, wheelchair, or other remedial
40 appliance or device, or [from] any mental, psychological or
41 developmental disability resulting from anatomical, psychological,
42 physiological or neurological conditions which prevents the normal
43 exercise of any bodily or mental functions or is demonstrable,
44 medically or psychologically, by accepted clinical or laboratory
45 diagnostic techniques. [Handicapped] Disability shall also mean
46 [suffering from] AIDS or HIV infection.

47 r. "Blind person" means any individual whose central visual acuity

- 1 does not exceed 20/200 in the better eye with correcting lens or whose
2 visual acuity is better than 20/200 if accompanied by a limit to the field
3 of vision in the better eye to such a degree that its widest diameter
4 subtends an angle of no greater than 20 degrees.
- 5 s. "Guide dog" means a dog used to assist deaf persons or which
6 is fitted with a special harness so as to be suitable as an aid to the
7 mobility of a blind person, and is used by a blind person who has
8 satisfactorily completed a specific course of training in the use of such
9 a dog, and has been trained by an organization generally recognized by
10 agencies involved in the rehabilitation of the blind or deaf as reputable
11 and competent to provide dogs with training of this type.
- 12 t. "Guide or service dog trainer" means any person who is
13 employed by an organization generally recognized by agencies
14 involved in the rehabilitation of [the blind, handicapped or deaf]
15 persons with disabilities as reputable and competent to provide dogs
16 with training, and who is actually involved in the training process.
- 17 u. "Housing accommodation" means any publicly assisted housing
18 accommodation or any real property, or portion thereof, which is used
19 or occupied, or is intended, arranged, or designed to be used or
20 occupied, as the home, residence or sleeping place of one or more
21 persons, but shall not include any single family residence the occupants
22 of which rent, lease, or furnish for compensation not more than one
23 room therein.
- 24 v. "Public facility" means any place of public accommodation and
25 any street, highway, sidewalk, walkway, public building, and any other
26 place or structure to which the general public is regularly, normally or
27 customarily permitted or invited.
- 28 w. "Deaf person" means any person whose hearing is so severely
29 impaired that the person is unable to hear and understand normal
30 conversational speech through the unaided ear alone, and who must
31 depend primarily on a supportive device or visual communication such
32 as writing, lip reading, sign language, and gestures.
- 33 x. "Atypical hereditary cellular or blood trait" means sickle cell
34 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
35 fibrosis trait.
- 36 y. "Sickle cell trait" means the condition wherein the major natural
37 hemoglobin components present in the blood of the individual are
38 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
39 defined by standard chemical and physical analytic techniques,
40 including electrophoresis; and the proportion of hemoglobin A is
41 greater than the proportion of hemoglobin S or one natural parent of
42 the individual is shown to have only normal hemoglobin components
43 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
44 proportions by standard chemical and physical analytic tests.
- 45 z. "Hemoglobin C trait" means the condition wherein the major
46 natural hemoglobin components present in the blood of the individual
47 are hemoglobin A (normal) and hemoglobin C as defined by standard

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

1 (1) provided under any State [or federal] program that the
2 Attorney General determines is specifically designed and operated to
3 assist elderly persons (as defined in the State [or federal] program);
4 or provided under any federal program that the United States
5 Department of Housing and Urban Development determines is
6 specifically designed and operated to assist elderly persons (as defined
7 in the federal program); or

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

10 (3) intended and operated for occupancy by at least one person 55
11 years of age or older per unit. In determining whether housing
12 qualifies as housing for older persons under this subsection, the
13 Attorney General shall adopt regulations which require at least the
14 following factors:

15 (a) the existence of significant facilities and services specifically
16 designed to meet the physical or social needs of older persons, or if the
17 provision of such facilities and services is not practicable, that such
18 housing is necessary to provide important housing opportunities for
19 older persons; and

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

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

25 Housing shall not fail to meet the requirements for housing for
26 older persons by reason of: persons residing in such housing as of
27 [March 12, 1989] September 13, 1988 not meeting the age
28 requirements of this subsection, provided that new occupants of such
29 housing meet the age requirements of this subsection; or unoccupied
30 units, provided that such units are reserved for occupancy by persons
31 who meet the age requirements of this subsection.

32 nn. "Genetic characteristic" means any inherited gene or
33 chromosome, or alteration thereof, that is scientifically or medically
34 believed to predispose an individual to a disease, disorder or
35 syndrome, or to be associated with a statistically significant increased
36 risk of development of a disease, disorder or syndrome.

37 oo. "Genetic information" means the information about genes, gene
38 products or inherited characteristics that may derive from an individual
39 or family member.

40 pp. "Genetic test" means a test for determining the presence or
41 absence of an inherited genetic characteristic in an individual, including
42 tests of nucleic acids such as DNA, RNA and mitochondrial DNA,
43 chromosomes or proteins in order to identify a predisposing genetic
44 characteristic.

45 (cf: P.L.1996, c.126, s.4)

46

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

1 follows:

2 6. There is created in the Department of Law and Public Safety a
3 division known as "The Division on Civil Rights" with power to
4 prevent and eliminate discrimination in the manner prohibited by this
5 act against persons because of race, creed, color, national origin,
6 ancestry, age, marital status, affectional or sexual orientation, familial
7 status, nationality, disability, or sex or because of their liability for
8 service in the Armed Forces of the United States, by employers, labor
9 organizations, employment agencies or other persons and to take other
10 actions against discrimination because of race, creed, color, national
11 origin, ancestry, marital status, sex, familial status nationality,
12 disability, or age or because of their liability for service in the Armed
13 Forces of the United States, as herein provided; and the division
14 created hereunder is given general jurisdiction and authority for such
15 purposes.

16 (cf: P.L.1992, c.146, s.5)

17

18 8. Section 8 of P.L.1945, c.169 (C.10:5-8) is amended to read as
19 follows:

20 8. The Attorney General shall:

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

22 b. Administer the work of the division.

23 c. Organize the division into sections, which shall include but not
24 be limited to a section which shall receive, investigate, and act upon
25 complaints alleging discrimination against persons because of race,
26 creed, color, national origin, ancestry, age, marital status, affectional
27 or sexual orientation, familial status, disability, nationality or sex or
28 because of their liability for service in the Armed Forces of the United
29 States; and another which shall, in order to eliminate prejudice and to
30 further good will among the various racial and religious and nationality
31 groups in this State, study, recommend, prepare and implement, in
32 cooperation with such other departments of the State Government or
33 any other agencies, groups or entities both public and private, such
34 educational and human relations programs as are consonant with the
35 objectives of this act; and prescribe the organization of said sections
36 and the duties of his subordinates and assistants.

37 d. Appoint a Director of the Division on Civil Rights, who shall act
38 for the Attorney General, in the Attorney General's place and with the
39 Attorney General's powers, which appointment shall be subject to the
40 approval of the commission and the Governor, a deputy director and
41 such assistant directors, field representatives and assistants as may be
42 necessary for the proper administration of the division and fix their
43 compensation within the limits of available appropriations. The
44 director, deputy director, assistant directors, field representatives and
45 assistants shall not be subject to the Civil Service Act and shall be
46 removable by the Attorney General at will.

47 e. Appoint such clerical force and employees as the Attorney

- 1 General may deem necessary and fix their duties, all of whom shall be
2 subject to the Civil Service Act.
- 3 f. Maintain liaison with local and State officials and agencies
4 concerned with matters related to the work of the division.
- 5 g. Adopt, promulgate, amend, and rescind suitable rules and
6 regulations to carry out the provisions of this act.
- 7 h. Conduct investigations, receive complaints and conduct hearings
8 thereon other than those complaints received and hearings held
9 pursuant to the provisions of this act.
- 10 i. In connection with any investigation or hearing held pursuant to
11 the provisions of this act, subpoena witnesses, compel their
12 attendance, administer oaths, take the testimony of any person, under
13 oath, and, in connection therewith, require the production for
14 examination of any books or papers relating to any subject matter
15 under investigation or in question by the division and conduct such
16 discovery procedures which may include the taking of interrogatories
17 and oral depositions as shall be deemed necessary by the Attorney
18 General in any investigation. The Attorney General may make rules
19 as to the issuance of subpoenas by the director. The failure of any
20 witness when duly subpoenaed to attend, give testimony, or produce
21 evidence shall be punishable by the Superior Court of New Jersey in
22 the same manner as such failure is punishable by such court in a case
23 therein pending.
- 24 j. Issue such publications and such results of investigations and
25 research tending to promote good will and to minimize or eliminate
26 discrimination because of race, creed, color, national origin, ancestry,
27 age, marital status, affectional or sexual orientation, familial status,
28 disability, nationality or sex, as the commission shall direct, subject to
29 available appropriations.
- 30 k. Render each year to the Governor and Legislature a full written
31 report of all the activities of the division.
- 32 l. Appoint, subject to the approval of the commission, a panel of
33 not more than five hearing examiners, each of whom shall be duly
34 licensed to practice law in this State for a period of at least five years,
35 and each to serve for a term of one year and until his successor is
36 appointed, any one of whom the director may designate in his place to
37 conduct any hearing and recommend findings of fact and conclusions
38 of law. The hearing examiners shall receive such compensation as may
39 be determined by the Attorney General, subject to available
40 appropriations.
- 41 (cf: P.L.1992, c.146, s.6)
- 42
- 43 9. Section 1 of P.L.1954, c.198 (C.10:5-9.1) is amended to read as
44 follows:
- 45 1. The Division on Civil Rights in the Department of Law and
46 Public Safety shall enforce the laws of this State against discrimination
47 in housing built with, or leased with the assistance of, public funds or

1 public assistance, pursuant to any law, and in real property, as defined
2 in the law hereby supplemented, because of race, religious principles,
3 color, national origin, ancestry, marital status, affectional or sexual
4 orientation, familial status, disability, nationality sex or source of
5 lawful income used for rental or mortgage payments. The said laws
6 shall be so enforced in the manner prescribed in the act to which this
7 act is a supplement.

8 (cf: P.L.2002, c.82, s.2)

9

10 10. Section 13 of P.L.1992, c.146 (C.10:5-9.2) is amended to read
11 as follows:

12 13. The provisions of this amendatory and supplementary act,
13 P.L.1992, c.146 (C.10:5-12.4 et al.), and P.L. , c. (now before the
14 Legislature as this bill), are intended to permit the Division on Civil
15 Rights in the Department of Law and Public Safety to qualify as a
16 "certified agency" within the meaning of the Federal Fair Housing
17 Amendments Act, Pub.L. 100-430 (42 U.S.C. s.3610 (f)), and shall be
18 construed as consistent with that purpose. Nothing in [this
19 amendatory and supplementary act,] P.L.1992, c.146 (C.10:5-12.4 et
20 al.) and P.L. , c. (now before the Legislature as this bill), shall be
21 construed to permit conduct prohibited by the "Law Against
22 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), prior to the
23 effective date of [this act, nor is it intended to be construed to
24 prohibit conduct now permitted] of P.L. , c. (now before the
25 Legislature as this bill).

26 (cf: P.L.1992, c.146, s.13)

27

28 11. Section 9 of P.L.1945, c.169 (C.10:5-10) is amended to read
29 as follows:

30 9. The commission shall:

31 a. Consult with and advise the Attorney General with respect to the
32 work of the division.

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

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

37 The mayors or chief executive officers of the municipalities in the
38 State may appoint local commissions on civil rights to aid in
39 effectuating the purposes of this act. Such local commissions shall be
40 composed of representative citizens serving without compensation.
41 Such commissions shall attempt to foster through community effort or
42 otherwise, good will, cooperation and conciliation among the groups
43 and elements of the inhabitants of the community, and they may be
44 empowered by the local governing bodies to make recommendations
45 to them for the development of policies and procedures in general and
46 for programs of formal and informal education that will aid in
47 eliminating all types of discrimination based on race, creed, color,

1 national origin, ancestry, age, marital status, affectional or sexual
2 orientation, familial status , disability, nationality or sex.
3 (cf: P.L.1992, c.146, s.8)

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

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

9 a. For an employer, because of the race, creed, color, national
10 origin, ancestry, age, marital status, affectional or sexual orientation,
11 genetic information, sex , disability or atypical hereditary cellular or
12 blood trait of any individual, or because of the liability for service in
13 the Armed Forces of the United States or the nationality of any
14 individual, or because of the refusal to submit to a genetic test or make
15 available the results of a genetic test to an employer, to refuse to hire
16 or employ or to bar or to discharge or require to retire, unless justified
17 by lawful considerations other than age, from employment such
18 individual or to discriminate against such individual in compensation
19 or in terms, conditions or privileges of employment; provided,
20 however, it shall not be an unlawful employment practice to refuse to
21 accept for employment an applicant who has received a notice of
22 induction or orders to report for active duty in the armed forces;
23 provided further that nothing herein contained shall be construed to
24 bar an employer from refusing to accept for employment any person
25 on the basis of sex in those certain circumstances where sex is a bona
26 fide occupational qualification, reasonably necessary to the normal
27 operation of the particular business or enterprise; provided further that
28 nothing herein contained shall be construed to bar an employer from
29 refusing to accept for employment or to promote any person over 70
30 years of age; provided further that it shall not be an unlawful
31 employment practice for a club exclusively social or fraternal to use
32 club membership as a uniform qualification for employment, or for a
33 religious association or organization to utilize religious affiliation as
34 a uniform qualification in the employment of clergy, religious teachers
35 or other employees engaged in the religious activities of the
36 association or organization, or in following the tenets of its religion in
37 establishing and utilizing criteria for employment of an employee;
38 provided further, that it shall not be an unlawful employment practice
39 to require the retirement of any employee who, for the two-year period
40 immediately before retirement, is employed in a bona fide executive or
41 a high policy-making position, if that employee is entitled to an
42 immediate non-forfeitable annual retirement benefit from a pension,
43 profit sharing, savings or deferred retirement plan, or any combination
44 of those plans, of the employer of that employee which equals in the
45 aggregate at least \$27,000.00; and provided further that an employer
46 may restrict employment to citizens of the United States where such
47 restriction is required by federal law or is otherwise necessary to

1 protect the national interest.

2 For the purposes of this subsection, a "bona fide executive" is a top
3 level employee who exercises substantial executive authority over a
4 significant number of employees and a large volume of business. A
5 "high policy-making position" is a position in which a person plays a
6 significant role in developing policy and in recommending the
7 implementation thereof.

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

22 c. For any employer or employment agency to print or circulate or
23 cause to be printed or circulated any statement, advertisement or
24 publication, or to use any form of application for employment, or to
25 make an inquiry in connection with prospective employment, which
26 expresses, directly or indirectly, any limitation, specification or
27 discrimination as to race, creed, color, national origin, ancestry, age,
28 marital status, affectional or sexual orientation, disability, nationality
29 or sex or liability of any applicant for employment for service in the
30 Armed Forces of the United States, or any intent to make any such
31 limitation, specification or discrimination, unless based upon a bona
32 fide occupational qualification.

33 d. For any person to take reprisals against any person because that
34 person has opposed any practices or acts forbidden under this act or
35 because that person has filed a complaint, testified or assisted in any
36 proceeding under this act or to coerce, intimidate, threaten or interfere
37 with any person in the exercise or enjoyment of, or on account of that
38 person having aided or encouraged any other person in the exercise or
39 enjoyment of, any right granted or protected by this act.

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

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

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

28 (2) Notwithstanding the definition of "public accommodation " as
29 set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-5),
30 for any owner, lessee, proprietor, manager, superintendent, agent, or
31 employee of any private club or association to directly or indirectly
32 refuse, withhold from or deny to any individual who has been accepted
33 as a club member and has contracted for or is otherwise entitled to full
34 club membership any of the accommodations, advantages, facilities or
35 privileges thereof, or to discriminate against any member in the
36 furnishing thereof on account of the race, creed, color, national origin,
37 ancestry, marital status, sex, affectional or sexual orientation, disability
38 or nationality of such person.

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

47 g. For **[the]** any person, including but not limited to, any owner,

1 lessee, sublessee, assignee or managing agent of, or other person
2 having the right of ownership or possession of or the right to sell, rent,
3 lease, assign, or sublease any real property or part or portion thereof,
4 or any agent or employee of any of these:

5 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
6 to deny to or withhold from any person or group of persons any real
7 property or part or portion thereof because of [the] race, creed, color,
8 national origin, ancestry, marital status, sex, affectional or sexual
9 orientation, familial status, disability, nationality, or source of lawful
10 income used for rental or mortgage payments [of such person or
11 group of persons];

12 (2) To discriminate against any person or group of persons because
13 of [the] race, creed, color, national origin, ancestry, marital status,
14 sex, affectional or sexual orientation, familial status, disability,
15 nationality or source of lawful income used for rental or mortgage
16 payments [of such person or group of persons] in the terms,
17 conditions or privileges of the sale, rental or lease of any real property
18 or part or portion thereof or in the furnishing of facilities or services
19 in connection therewith;

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

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

1 (5) To refuse to rent or lease any real property to another person
2 because that person's family includes children under 18 years of age,
3 or to make an agreement, rental or lease of any real property which
4 provides that the agreement, rental or lease shall be rendered null and
5 void upon the birth of a child. This paragraph shall not apply to [any
6 county, State or Federally financed or assisted housing project
7 constructed for occupancy by senior citizens or to any property
8 located in a retirement subdivision as defined in the "Retirement
9 Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et
10 seq.), to any] housing for older persons [or to any unit in a planned
11 real estate development that is age-restricted and subject to the
12 provisions of the "Planned Real Estate Development Full Disclosure
13 Act," P.L.1977, c.419 (C.45:22A-21 et seq.).] as defined in subsection
14 mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

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

17 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
18 sale, rental, lease, assignment, or sublease any real property or part or
19 portion thereof to any person or group of persons or to refuse to
20 negotiate for the sale, rental, lease, assignment, or sublease of any real
21 property or part or portion thereof to any person or group of persons
22 because of [the] race, creed, color, national origin, ancestry, marital
23 status, familial status, sex, affectional or sexual orientation, disability,
24 nationality, or source of lawful income used for rental or mortgage
25 payments [of such person or group of persons], or to represent that
26 any real property or portion thereof is not available for inspection,
27 sale, rental, lease, assignment, or sublease when in fact it is so
28 available, or otherwise to deny or withhold any real property or any
29 part or portion of facilities thereof to or from any person or group of
30 persons because of [the] race, creed, color, national origin, ancestry,
31 marital status, familial status, sex, affectional or sexual orientation ,
32 disability or nationality [of such person or group of persons];

33 (2) To discriminate against any person because of [his] race,
34 creed, color, national origin, ancestry, marital status, familial status,
35 sex, affectional or sexual orientation, disability, nationality, or source
36 of lawful income used for rental or mortgage payments in the terms,
37 conditions or privileges of the sale, rental, lease, assignment or
38 sublease of any real property or part or portion thereof or in the
39 furnishing of facilities or services in connection therewith;

40 (3) To print, publish, circulate, issue, display, post, or mail, or
41 cause to be printed, published, circulated, issued, displayed, posted or
42 mailed any statement, advertisement, publication or sign, or to use any
43 form of application for the purchase, rental, lease, assignment, or
44 sublease of any real property or part or portion thereof or to make any
45 record or inquiry in connection with the prospective purchase, rental,
46 lease, assignment, or sublease of any real property or part or portion

1 thereof which expresses, directly or indirectly, any limitation,
2 specification or discrimination as to race, creed, color, national origin,
3 ancestry, marital status, familial status, sex, affectional or sexual
4 orientation, disability, nationality, or source of lawful income used for
5 rental or mortgage payments or any intent to make any such limitation,
6 specification or discrimination, and the production of any such
7 statement, advertisement, publicity, sign, form of application, record,
8 or inquiry purporting to be made by any such person shall be
9 presumptive evidence in any action that the same was authorized by
10 such person; provided, however, that nothing contained in this
11 subsection h., shall be construed to bar any person from refusing to
12 sell, rent, lease, assign or sublease or from advertising or recording a
13 qualification as to sex for any room, apartment, flat in a dwelling or
14 residential facility which is planned exclusively for and occupied
15 exclusively by individuals of one sex to any individual of the opposite
16 sex on the basis of sex;

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

22 (5) To refuse to rent or lease any real property to another person
23 because that person's family includes children under 18 years of age,
24 or to make an agreement, rental or lease of any real property which
25 provides that the agreement, rental or lease shall be rendered null and
26 void upon the birth of a child. This paragraph shall not apply to [any
27 county, State or Federally financed or assisted housing project
28 constructed for occupancy by senior citizens or to any property
29 located in a retirement subdivision as defined in the "Retirement
30 Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et
31 seq.), to] housing for older persons [or to any unit in a planned real
32 estate development that is age-restricted and subject to the provisions
33 of the "Planned Real Estate Development Full Disclosure Act,"
34 P.L.1977, c.419 (C.45:22A-21 et seq.)] as defined in subsection mm.
35 of section 5 of P.L.1945, c.169 (C.10:5-5).

36 i. For any person, bank, banking organization, mortgage company,
37 insurance company or other financial institution, lender or credit
38 institution [to whom application is made for] involved in the making
39 or purchasing of any loan or extension of credit, for whatever purpose,
40 whether secured by residential real estate or not, including but not
41 limited to [an application for] financial assistance for the purchase,
42 acquisition, construction, rehabilitation, repair or maintenance of any
43 real property or part or portion thereof or any agent or employee
44 thereof:

45 (1) To discriminate against any person or group of persons because
46 of [the] race, creed, color, national origin, ancestry, marital status,
47 sex, affectional or sexual orientation, disability, familial status or

1 nationality [of such person or group of persons or of the prospective
2 occupants or tenants of such real property or part or portion thereof],
3 in the granting, withholding, extending, modifying [or] renewing, or
4 purchasing, or in the fixing of the rates, terms, conditions or
5 provisions of any such loan, extension of credit or financial assistance
6 or purchase thereof or in the extension of services in connection
7 therewith;

8 (2) To use any form of application for such loan, extension of
9 credit or financial assistance or to make record or inquiry in
10 connection with applications for any such loan, extension of credit or
11 financial assistance which expresses, directly or indirectly, any
12 limitation, specification or discrimination as to race, creed, color,
13 national origin, ancestry, marital status, sex, affectional or sexual
14 orientation, disability, familial status or nationality or any intent to
15 make any such limitation, specification or discrimination; unless
16 otherwise required by law or regulation to retain or use such
17 information;

18 (3) [To discriminate on the basis of familial status in any manner
19 described in paragraph (1) or (2) of this subsection with respect to any
20 real property] (Deleted by amendment, P.L. c. (C.) (now before
21 the Legislature as this bill);

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

25 (5) To discriminate against any person or group of persons because
26 that person's family includes children under 18 years of age, or to
27 make an agreement or mortgage which provides that the agreement or
28 mortgage shall be rendered null and void upon the birth of a child. This
29 paragraph shall not apply to [any county, State or Federally financed
30 or assisted housing project constructed for occupancy by senior
31 citizens or to any property located in a retirement subdivision as
32 defined in the "Retirement Community Full Disclosure Act," P.L.1969,
33 c.215 (C.45:22A-1 et seq.), to] housing for older persons [or to any
34 unit in a planned real estate development that is age-restricted and
35 subject to the provisions of the "Planned Real Estate Development Full
36 Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.)] as defined
37 in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

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

42 k. For any real estate broker, real estate salesperson or employee
43 or agent thereof or any other individual, corporation, partnership, or
44 organization, for the purpose of inducing a transaction for the sale or
45 rental of real property from which transaction such person or any of
46 its members may benefit financially, to represent that a change has

1 occurred or will or may occur in the composition with respect to race,
2 creed, color, national origin, ancestry, marital status, familial status,
3 sex, affectional or sexual orientation, disability, nationality, or source
4 of lawful income used for rental or mortgage payments of the owners
5 or occupants in the block, neighborhood or area in which the real
6 property is located, and to represent, directly or indirectly, that this
7 change will or may result in undesirable consequences in the block,
8 neighborhood or area in which the real property is located, including,
9 but not limited to the lowering of property values, an increase in
10 criminal or anti-social behavior, or a decline in the quality of schools
11 or other facilities.

12 1. For any person to refuse to buy from, sell to, lease from or to,
13 license, contract with, or trade with, provide goods, services or
14 information to, or otherwise do business with any other person on the
15 basis of the race, creed, color, national origin, ancestry, age, sex,
16 affectional or sexual orientation, marital status, liability for service in
17 the Armed Forces of the United States, disability, nationality, or
18 source of lawful income used for rental or mortgage payments of such
19 other person or of such other person's spouse, partners, members,
20 stockholders, directors, officers, managers, superintendents, agents,
21 employees, business associates, suppliers, or customers. This
22 subsection shall not prohibit refusals or other actions (1) pertaining to
23 employee-employer collective bargaining, labor disputes, or unfair
24 labor practices, or (2) made or taken in connection with a protest of
25 unlawful discrimination or unlawful employment practices.

26 m. For any person to:

27 (1) Grant or accept any letter of credit or other document which
28 evidences the transfer of funds or credit, or enter into any contract for
29 the exchange of goods or services, where the letter of credit, contract,
30 or other document contains any provisions requiring any person to
31 discriminate against or to certify that he, she or it has not dealt with
32 any other person on the basis of the race, creed, color, national origin,
33 ancestry, age, sex, affectional or sexual orientation, marital status,
34 disability, liability for service in the Armed Forces of the United
35 States, or nationality of such other person or of such other person's
36 spouse, partners, members, stockholders, directors, officers, managers,
37 superintendents, agents, employees, business associates, suppliers, or
38 customers.

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

43 The provisions of this subsection shall not apply to any letter of
44 credit, contract, or other document which contains any provision
45 pertaining to employee-employer collective bargaining, a labor dispute
46 or an unfair labor practice, or made in connection with the protest of
47 unlawful discrimination or an unlawful employment practice, if the

1 other provisions of such letter of credit, contract, or other document
2 do not otherwise violate the provisions of this subsection.

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

7 (1) Buying from, selling to, leasing from or to, licensing,
8 contracting with, trading with, providing goods, services, or
9 information to, or otherwise doing business with any person because
10 that person does, or agrees or attempts to do, any such act or any act
11 prohibited by this subsection [n.]; or

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

21 o. For any multiple listing service, real estate brokers' organization
22 or other service, organization or facility related to the business of
23 selling or renting dwellings to deny any person access to or
24 membership or participation in such organization, or to discriminate
25 against such person in the terms or conditions of such access,
26 membership, or participation, on account of race, creed, color,
27 national origin, ancestry, age, marital status, familial status, sex,
28 affectional or sexual orientation, disability or nationality.

29 (cf: P.L.2002, c.82, s.3)

30

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

33 12. a. It shall be an unlawful discrimination for a municipality,
34 county or other local civil or political subdivision of the State of New
35 Jersey, or an officer, employee, or agent thereof, to exercise the power
36 to regulate land use or housing in a manner that discriminates on the
37 basis of race, creed, color, national origin, ancestry, marital status,
38 familial status, sex, nationality or [handicap] disability.

39 b. Notwithstanding the provisions of section 12 of P.L.1945, c.169
40 (C.10:5-13) any person claiming to be aggrieved by an unlawful
41 discrimination under this section shall enforce this section by private
42 right of action in Superior Court. This section shall not apply to
43 discrimination in housing owned or managed by a municipality, county
44 or other local civil or political subdivision of the State of New Jersey
45 where such discrimination is otherwise prohibited by section 11 of
46 P.L.1945, c.169 (C.10:5-12).

47 (cf: P.L.1992, c.146, s.12)

1 14. Section 13 of P.L.1945, c.169 (C.10:5-14) is amended to read
2 as follows:

3 13. After the filing of any complaint, the Attorney General shall
4 cause prompt investigation to be made in connection therewith and
5 advise the complainant of the results thereof. **[If the Attorney General**
6 **shall determine after such investigation that probable cause exists for**
7 **crediting the allegations of the complaint, the Attorney General shall**
8 **immediately endeavor to eliminate the unlawful employment practice**
9 **or the unlawful discrimination complained of by conference,**
10 **conciliation and persuasion during a period terminating not later than**
11 **45 days from the date of the finding of probable cause.] During the**
12 **period beginning with the filing of such complaint and ending with the**
13 **closure of the case or 45 days from the date of a finding of probable**
14 **cause, the Attorney General shall, to the extent feasible, engage in**
15 **conciliation with respect to such complaint.** Neither the Attorney
16 General nor any officer or employee of the division shall disclose any
17 conversation between the Attorney General or a representative and the
18 respondent or a representative at such conference, except that the
19 Attorney General and any officer or employee may disclose the terms
20 of a settlement offer to the complainant or other aggrieved person on
21 whose behalf the complaint was filed.

22 (cf: P.L.1992, c.146, s.10)

23

24 15. Section 15 of P.L.1945, c.169 (C.10:5-16) is amended to read
25 as follows:

26 15. **[The] When the director has issued a finding of probable**
27 **cause, the case in support of the complaint shall be presented before**
28 **the director by the attorney for the division and evidence concerning**
29 **attempted conciliation shall not be received. The respondent shall file**
30 **a written verified answer to the complaint and appear at such hearing**
31 **in person or by representative, with or without counsel, and submit**
32 **testimony. [In the discretion of the director, the] The complainant**
33 **[may] shall be allowed to intervene and present testimony in person**
34 **and may be represented by counsel. The director or the complainant**
35 **shall have the power reasonably and fairly to amend any complaint,**
36 **and the respondent shall have like power to amend his answer. The**
37 **director shall not be bound by the strict rules of evidence prevailing**
38 **in civil actions in courts of competent jurisdiction of this State. The**
39 **testimony taken at the hearing shall be under oath and a verbatim**
40 **record shall be made. When the director has issued a finding of**
41 **probable cause in a housing discrimination complaint only, any party**
42 **to that complaint may elect, in lieu of the administrative proceeding set**
43 **forth in this section, to have the claim asserted in the finding of**
44 **probable cause adjudicated in a civil action in Superior Court pursuant**
45 **to section 12 of P.L.1945, c.169 (C.10:5-13).** Such an election shall
46 **be made not later than 20 days after receipt of the finding of probable**
47 **cause. Upon such election, the attorney for the division shall promptly**

1 file such an action in Superior Court. Upon application to the court
2 wherein the matter is pending, the complainant shall be permitted to
3 intervene and present testimony in person and may be represented by
4 counsel.

5 (cf: P.L.1980, c.71, s.1)

6
7 16. Section 16 of P.L.1945, c.169 (C.10:5-17) is amended to read
8 as follows:

9 16. If, upon all evidence at the hearing, the director shall find that
10 the respondent has engaged in any unlawful employment practice or
11 unlawful discrimination as defined in this act, the director shall state
12 his findings of fact and conclusions of law and shall issue and cause
13 to be served on such respondent an order requiring such respondent
14 to cease and desist from such unlawful employment practice or
15 unlawful discrimination and to take such affirmative action, including,
16 but not limited to, hiring, reinstatement or upgrading of employees,
17 with or without back pay, or restoration to membership, in any
18 respondent labor organization, or extending full and equal
19 accommodations, advantages, facilities, and privileges to all persons,
20 as, in the judgment of the director, will effectuate the purpose of this
21 act, and including a requirement for report of the manner of
22 compliance. If the conduct violative of this act constitutes any form
23 of unlawful economic discrimination prohibited in section 11,
24 subsections 1., m., and n. of this act, the affirmative action taken by
25 the director may include the award of three-fold damages to the
26 person or persons aggrieved by the violation. The director shall have
27 the power to use reasonably certain bases, including but not limited
28 to list, catalogue or market prices or values, or contract or advertised
29 terms and conditions, in order to determine particulars or performance
30 in giving appropriate remedy. In addition to any other remedies
31 provided by P.L.1945, c.169 (C.10:5-1 et seq.), a prevailing
32 complainant may recover damages to compensate for emotional
33 distress caused by the activities found to be in violation of P.L.1945,
34 c.169 (C.10:5-1 et seq.) to the same extent as is available in common
35 law tort actions. In any case in which the director, Attorney General,
36 or appropriate organization is a complainant, on behalf of named or
37 unnamed individuals or a class of individuals, any of the remedies or
38 relief allowed by this act may be awarded or applied to the named or
39 unnamed individual victims of discrimination. If, upon all evidence,
40 the director shall find that the respondent has not engaged in any such
41 unlawful practice or unlawful discrimination, the director shall state
42 his findings of fact and conclusions of law and shall issue and cause to
43 be served on the complainant an order dismissing the said complaint
44 as to such respondent.

45 (cf: P.L.1979, c.404, s.3)

46
47 17. Section 26 of P.L.1945, c.169 (C.10:5-27) is amended to read

1 as follows:

2 26. The provisions of this act shall be construed fairly and justly
3 with due regard to the interests of all parties. Nothing contained in
4 this act shall be deemed to repeal any of the provisions of the Civil
5 Rights Law or of any other law of this State relating to discrimination
6 because of race, creed, color, national origin, ancestry, marital status,
7 affectional or sexual orientation, disability, nationality or sex or
8 liability for service in the Armed Forces of the United States; except
9 that, as to practices and acts declared unlawful by section 11 of this
10 act, the procedure herein provided shall, while pending, be exclusive;
11 and the final determination therein shall exclude any other action, civil
12 or criminal, based on the same grievance of the individual concerned.
13 Nothing herein contained shall bar, exclude or otherwise affect any
14 right or action, civil or criminal, which may exist independently of any
15 right to redress against or specific relief from any unlawful
16 employment practice or unlawful discrimination. With respect only to
17 affectional or sexual orientation, nothing contained herein shall be
18 construed to require the imposition of affirmative action, plans or
19 quotas as specific relief from an unlawful employment practice or
20 unlawful discrimination.

21 (cf: P.L.1991, c.519, s.9)

22

23 18. Section 1 of P.L.1971, c.130 (C.10:5-29) is amended to read
24 as follows:

25 1. Any [handicapped, blind or deaf] person with a disability
26 accompanied by a service or guide dog trained by a recognized
27 training agency or school is entitled, with his dog, to the full and
28 equal enjoyment, advantages, facilities and privileges of all public
29 facilities, subject only to the following conditions:

30 a. A [handicapped, blind or deaf] person with a disability, if
31 accompanied by a service or guide dog, shall keep such dog in his
32 immediate custody at all times;

33 b. A [handicapped, blind or deaf] person with a disability
34 accompanied by a service or guide dog shall not be charged any extra
35 fee or payment for admission to or use of any public facility;

36 c. A [handicapped, blind or deaf] person with a disability who has
37 a service or guide dog in his possession shall be liable for any damages
38 done to the premises of a public facility by such dog.

39 d. (Deleted by amendment; P.L.1981, c. 391.)

40 (cf: P.L.1983, c.485, s.4)

41

42 19. Section 3 of P.L.1977, c.456 (C.10:5-29.1) is amended to read
43 as follows:

44 3. Unless it can be clearly shown that a person's [handicap,
45 blindness or deafness] disability would prevent such person from
46 performing a particular job, it is an unlawful employment practice to

1 deny to an otherwise qualified [handicapped, blind or deaf] person
2 with a disability the opportunity to obtain or maintain employment, or
3 to advance in position in his job, solely because such person is
4 [handicapped, blind or deaf] a person with a disability or because such
5 person is accompanied by a service or guide dog.
6 (cf: P.L.1983, c.485, s.5)

7
8 20. Section 4 of P.L.1977, c.456 (C.10:5-29.2) is amended to read
9 as follows:

10 4. A [handicapped, blind or deaf] person with a disability is
11 entitled to rent, lease or purchase, as other members of the general
12 public, all housing accommodations offered for rent, lease, or
13 compensation in this State, subject to the rights, conditions and
14 limitations established by law [and applicable alike to all persons].
15 Nothing in this section shall require any person renting, leasing or
16 providing for compensation real property, to modify such property in
17 any way to provide a higher degree of care for a [handicapped, blind
18 or deaf] person with a disability than for any other person. A
19 [handicapped, blind or deaf] person with a disability who has a service
20 or guide dog, or who obtains a service or guide dog, shall be entitled
21 to full and equal access to all housing accommodations and shall not
22 be required to pay extra compensation for such service or guide dog,
23 but shall be liable for any damages done to the premises by such dog.
24 Any provision in any lease or rental agreement prohibiting
25 maintenance of a pet or pets on or in the premises shall not be
26 applicable to a service or guide dog owned by a [handicapped, blind
27 or deaf] tenant who is a person with a disability.

28 (cf: P.L.1983, c.485, s.6)

29

30 21. Section 5 of P.L.1977, c.456 (C.10:5-29.3) is amended to read
31 as follows:

32 5. A service or guide dog trainer, while engaged in the actual
33 training process and activities of service dogs or guide dogs, shall
34 have the same rights and privileges with respect to access to public
35 facilities, and the same responsibilities as are applicable to a
36 [handicapped, blind or deaf] person with a disability.

37 (cf: P.L.1983, c.485, s.7)

38

39 22. Section 6 of P.L.1977, c.456 (C.10:5-29.4) is amended to read
40 as follows:

41 6. A [blind] person with a disability accompanied by a guide dog,
42 or a guide dog instructor engaged in instructing a guide dog, shall
43 have the right-of-way over vehicles while crossing a highway or any
44 intersection thereof, as provided in section 1 of P.L.1939, c.274
45 (C.39:4-37.1).

46 (cf: P.L.1999, c.264, s.1)

1 23. Section 9 of P.L.1980, c.46 (C.10:5-29.6) is amended to read
2 as follows:

3 9. Whenever the law accords rights and privileges to or imposes
4 conditions and restrictions upon blind persons with respect to their
5 use of dogs to countervail their [handicap] disability, and known and
6 described as "seeing eye" dogs, those rights, privileges, conditions
7 and restrictions shall also apply to [handicapped or deaf persons]
8 persons with disabilities with respect to their use of dogs to
9 countervail their [handicap] disability, and known and described as
10 either "service dogs" or "hearing ear" dogs.
11 (cf: P.L.1983, c.485, s.8)

12
13 24. Section 1 of P.L.1975, c.127 (C.10:5-31) is amended to read
14 as follows:

15 1. As used in this act:

16 a. "Public works contract" means any contract to be performed for
17 or on behalf of the State or any county or municipality or other
18 political subdivision of the State, or any agency or authority created
19 by any of the foregoing, for the construction, alteration or repair of
20 any building or public work or for the acquisition of materials,
21 equipment, supplies or services with respect to which discrimination
22 in the hiring of persons for the performance of work thereunder or
23 under any subcontract thereunder by reason of race, creed, color,
24 national origin, ancestry, marital status, affectional or sexual
25 orientation, nationality, disability or sex is prohibited under
26 R.S.10:2-1.

27 b. "Equal employment opportunity" means equality in opportunity
28 for employment by any contractor, subcontractor or business firm
29 engaged in the carrying out of a public works project including its
30 development, design, acquisition, construction, management and
31 operation.

32 (cf: P.L.1991, c.519, s.11)

33
34 25. Section 3 of P.L.1975, c.127 (C.10:5-33) is amended to read
35 as follows:

36 3. The State or any county or municipality or other political
37 subdivision of the State, or any agency of or authority created by any
38 of the foregoing, shall include in the bid specifications and the contract
39 provisions of any public works contract the following language:

40 "During the performance of this contract, the contractor agrees as
41 follows:

42 a. The contractor or subcontractor, where applicable, will not
43 discriminate against any employee or applicant for employment
44 because of age, race, creed, color, national origin, ancestry, marital
45 status, affectional or sexual orientation, disability, nationality or sex.
46 Except with respect to affectional or sexual orientation, the contractor
47 will take affirmative action to ensure that such applicants are recruited

1 and employed, and that employees are treated during employment,
2 without regard to their age, race, creed, color, national origin,
3 ancestry, marital status, affectional or sexual orientation, disability,
4 nationality or sex. Such action shall include, but not be limited to the
5 following: employment, upgrading, demotion, or transfer; recruitment
6 or recruitment advertising; layoff or termination; rates of pay or other
7 forms of compensation; and selection for training, including
8 apprenticeship. The contractor agrees to post in conspicuous places,
9 available to employees and applicants for employment, notices to be
10 provided by the contracting officer setting forth the provisions of this
11 nondiscrimination clause;

12 b. The contractor or subcontractor, where applicable will, in all
13 solicitations or advertisements for employees placed by or on behalf
14 of the contractor, state that all qualified applicants will receive
15 consideration for employment without regard to age, race, creed,
16 color, national origin, ancestry, marital status, affectional or sexual
17 orientation, disability, nationality or sex;

18 c. The contractor or subcontractor where applicable, will send to
19 each labor union or representative of workers with which he has a
20 collective bargaining agreement or other contract or understanding, a
21 notice, to be provided by the agency contracting officer, advising the
22 labor union or workers' representative of the contractor's commitments
23 under this act and shall post copies of the notice in conspicuous places
24 available to employees and applicants for employment."

25 In soliciting bids for any public works contract the State or any
26 county or municipality or other political subdivision of the State, or
27 any agency of or authority created by any of the foregoing, shall
28 include in the advertisement and solicitation of bids the following
29 language: "Bidders are required to comply with the requirements of
30 P.L.1975, c.127."

31 (cf: P.L.1991, c.519, s.13)

32

33 26. Section 12 of P.L.1979, c. 150 (C.27:25-12) is amended to
34 read as follows:

35 a. The corporation shall formulate and abide by an
36 affirmative-action program of equal opportunity whereby it will
37 provide equal employment opportunity to rehabilitated offenders and
38 members of minority groups qualified in all employment categories,
39 including [the handicapped] persons with disabilities, in accordance
40 with the provisions of the "Law Against Discrimination," P.L.1945,
41 c. 169 (C. 10:5-1 et seq.), except in the case of the mentally
42 [handicapped] disabled, if it can be clearly shown that such
43 [handicap] disability would prevent such person from performing a
44 particular job.

45 b. Contracts and subcontracts to be awarded by the corporation in
46 connection with the construction, renovation or reconstruction of any
47 structure or facility owned or used by the corporation shall contain

1 appropriate provisions by which contractors and subcontractors or
2 their assignees agree to afford an equal employment opportunity to all
3 prospective employees and to all actual employees to be employed by
4 the contractor or subcontractor in accordance with an affirmative
5 action program consonant with the provisions of the "Law Against
6 Discrimination" P.L.1945, c.169 (C. 10:5-1 et seq.).
7 (P.L.1979, c.150, s. 12)
8

9 27. Section 2 of P.L.1994, c.176 (C.32:8-3.6) is amended to read
10 as follows:

11 2. a. The Delaware River Joint Toll Bridge Commission shall
12 formulate and abide by an affirmative action program of equal
13 opportunity whereby it will provide equal employment opportunity to
14 members of minority groups qualified in all employment categories,
15 including [the handicapped] persons with disabilities, in accordance
16 with the provisions of the "Law Against Discrimination," P.L.1945,
17 c.169 (C.10:5-1) and the "Pennsylvania Human Relations Act,"
18 number 222 of the laws of Pennsylvania of 1955, except in the case of
19 the mentally [handicapped] disabled, if it can be clearly shown that
20 such [handicap] disability would prevent such person from performing
21 a particular job.

22 b. Contracts and subcontracts to be awarded by the commission in
23 connection with the construction, renovation or reconstruction of any
24 structure or facility owned or used by the commission shall contain
25 appropriate provisions by which contractors and subcontractors or
26 their assignees agree to afford an equal employment opportunity to all
27 prospective employees and to all actual employees to be employed by
28 the contractor or subcontractor in accordance with an affirmative
29 action program consonant with the provisions of the "Law Against
30 Discrimination," P.L.1945, c.169 (C.10:5-1) and the "Pennsylvania
31 Human Relations Act," number 222 of the laws of Pennsylvania of
32 1955.

33 (cf: P.L.1994, c.176, s.2)
34

35 28. This act shall take effect on the first day of the fourth month
36 following enactment.
37

38 STATEMENT
39

40 This bill amends the New Jersey Law Against Discrimination to
41 provide substantially equivalent protections against discrimination to
42 those provided under the federal Fair Housing Act. These
43 amendments will enable the New Jersey Division on Civil Rights to
44 achieve certification by the federal Department of Housing and Urban
45 Development (HUD) as a substantially equivalent agency under the
46 Fair Housing Act, and thereby to receive federal reimbursement for the
47 investigation of housing cases, as well as to be eligible for federal

1 funding for training programs, special enforcement efforts, and
2 partnerships with private organizations. These amendments are
3 required by HUD for such certification.

4 **Disability Discrimination.** Under current law, the provisions of
5 the Law Against Discrimination that enumerate the categories of
6 protection under the statute do not specifically include "handicap."
7 Instead, N.J.S.A.10:5-4.1 generally provides that it is unlawful to
8 discriminate against any person because such person is or has been
9 handicapped. This bill would add "disability" to each portion of the
10 statute in which the protected categories are listed, thereby providing
11 consistency and clarity to this area of the law. The bill would also
12 substitute "disability" for "handicapped" wherever it appears in the
13 Law Against Discrimination.

14 **Exemptions for Owner-Occupied Housing.** Under current law,
15 certain housing that is occupied by the owner or the owner's family is
16 exempt from the provisions of the Law Against Discrimination. This
17 bill would narrow this exemption to applicable dwellings in which the
18 other unit is actually occupied by the owner.

19 **Housing for Older Persons.** Under the provisions of this bill, the
20 definition of housing for older persons would be amended in order to
21 conform to the definition under federal law. Current law defines
22 housing for older persons, in part, as housing "provided under any
23 State of federal program that the Attorney General determines is
24 specifically designed and operated to assist elderly persons ..."
25 (subsection mm. of N.J.S.A.10:5-5). The bill would clarify that the
26 Secretary of HUD would make that designation with respect to federal
27 programs.

28 **Familial Status Exemptions.** Recent amendments to the Law
29 Against Discrimination pertaining to source of income protections,
30 had, in one section, the effect of broadening the exemptions from the
31 provisions prohibiting discrimination based on familial status. This bill
32 would limit that exemption to housing for older persons as already
33 defined by (subsection mm. of N.J.S.A.10:5-5).

34 **Discrimination in the Extension of Credit.** The bill would amend
35 subsection i. of N.J.S.A.10:5-12, which prohibits discrimination in the
36 extension of credit and making of loans, to clarify that the prohibitions
37 apply to loans secured by residential real estate regardless of the
38 purpose of the loan, and to the purchase of any loan or extension of
39 credit.

40 **Discrimination by Brokers' Organizations.** The bill would add
41 a new section to the Law Against Discrimination which would prohibit
42 multiple listing services, real estate brokers' organizations and similar
43 organizations from denying access to or membership in the
44 organizations or discriminating in the terms and conditions of such
45 access or membership on account of an individual's protected status.

46 **Conciliation Procedures.** Under this bill, N.J.S.A. 10:5-14 would
47 be amended to clarify that the Division on Civil Rights will attempt

1 conciliation of cases from the time the complaint is filed until closure
2 of the case or 45 days after the finding of probable cause.

3 **Election of Remedies.** This bill would provide an election of
4 remedies in housing cases in order to provide procedures equivalent
5 to those available under federal law. The bill would amend N.J.S.A.
6 10:5-16 to provide that where the director of the Division on Civil
7 Rights has issued a finding of probable cause in a housing case only,
8 any party may elect, in lieu of the administrative procedures set forth
9 in the Law Against Discrimination, to have the claim asserted in a civil
10 action in Superior Court, prosecuted by the Division on Civil Rights.
11 The bill further provides that this election must be made within 20
12 days of receipt of the finding of probable cause, and, in the discretion
13 of the director, the complainant may be allowed to intervene, present
14 testimony, and be represented by counsel in the Superior Court action.
15 The bill does not affect the current ability of the Division on Civil
16 Rights to seek costs and attorneys fees if it is a prevailing party.

17 **Compensatory Damages.** The bill would amend N.J.S.A. 10:5-17
18 to clarify that complaints in administrative hearings can recover
19 damages for emotional distress to the same extent as plaintiffs in Law
20 Against Discrimination actions brought in Superior Court. This
21 amendment is necessary because case law suggested, in dicta, that the
22 director's authority to award compensatory damages after an
23 administrative proceeding is limited. See, Maczik v. Gilford Park
24 Yacht Club, 271 N.J. Super. 439, 448 n.3 (App. Div. 1994). Under
25 this bill, victims of discrimination would be entitled to obtain
26 equivalent remedies to compensate them for injuries related to the
27 discrimination, regardless of the forum in which they filed.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2454

STATE OF NEW JERSEY

DATED: JUNE 9, 2003

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 2454.

This bill would amend the New Jersey "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), to provide substantially equivalent protections against discrimination to those provided under the federal Fair Housing Act. These amendments will enable the New Jersey Division on Civil Rights to achieve certification by the federal Department of Housing and Urban Development (HUD) as a substantially equivalent agency under the Fair Housing Act, and thereby to receive federal reimbursement for the investigation of housing cases, as well as to be eligible for federal funding for training programs, special enforcement efforts, and partnerships with private organizations. These amendments are required by HUD for such certification.

Disability Discrimination. Under current law, the provisions of the "Law Against Discrimination" that enumerate the categories of protection under the statute do not specifically include "handicap." Instead, Section 2 of P.L.1972, c.114 (C.10:5-4.1) generally provides that it is unlawful to discriminate against any person because such person is or has been handicapped. This bill would add "disability" to each portion of the statute in which the protected categories are listed, thereby providing consistency and clarity to this area of the law. The bill would also substitute "disability" for "handicapped" wherever it appears in the "Law Against Discrimination."

Exemptions for Owner-Occupied Housing. Under current law, certain housing that is occupied by the owner or the owner's family is exempt from the provisions of the "Law Against Discrimination." This bill would narrow this exemption to applicable dwellings in which the other unit is actually occupied by the owner.

Housing for Older Persons. Under the provisions of this bill, the definition of housing for older persons would be amended in order to conform to the definition under federal law. Current law defines housing for older persons, in part, as housing "provided under any State of federal program that the Attorney General determines is specifically designed and operated to assist elderly persons ..." (subsection mm. of Section 5 of P.L.1945, c.169 (C.10:5-5)). The bill would clarify that the Secretary of HUD would make that designation

with respect to federal programs.

Familial Status Exemptions. Recent amendments to the "Law Against Discrimination" pertaining to source of income protections, had, in one section, the effect of broadening the exemptions from the provisions prohibiting discrimination based on familial status. This bill would limit that exemption to housing for older persons as already defined by (subsection mm. of Section 5 of P.L.1945, c.169 (C.10:5-5).

Discrimination in the Extension of Credit. The bill would amend subsection i. of Section 11 of P.L.1945, c.169 (C.10:5-12), which prohibits discrimination in the extension of credit and making of loans, to clarify that the prohibitions apply to loans secured by residential real estate regardless of the purpose of the loan, and to the purchase of any loan or extension of credit.

Discrimination by Brokers' Organizations. The bill would add a new section to the "Law Against Discrimination" which would prohibit multiple listing services, real estate brokers' organizations and similar organizations from denying access to or membership in the organizations or discriminating in the terms and conditions of such access or membership on account of an individual's protected status.

Conciliation Procedures. Under this bill, Section 13 of P.L.1945, c.169 (C.10:5-14) would be amended to clarify that the Division on Civil Rights will attempt conciliation of cases from the time the complaint is filed until closure of the case or 45 days after the finding of probable cause.

Election of Remedies. This bill would provide an election of remedies in housing cases in order to provide procedures equivalent to those available under federal law. The bill would amend Section 15 of P.L.1945, c.169 (C.10:5-16) to provide that where the director of the Division on Civil Rights has issued a finding of probable cause in a housing case only, any party may elect, in lieu of the administrative procedures set forth in the "Law Against Discrimination," to have the claim asserted in a civil action in Superior Court, prosecuted by the Division on Civil Rights. The bill further provides that this election must be made within 20 days of receipt of the finding of probable cause, and, in the discretion of the director, the complainant may be allowed to intervene, present testimony, and be represented by counsel in the Superior Court action. The bill does not affect the current ability of the Division on Civil Rights to seek costs and attorneys fees if it is a prevailing party.

Compensatory Damages. The bill would amend Section 16 of P.L.1945, c.169 (C.10:5-17) to clarify that complaints in administrative hearings can recover damages for emotional distress to the same extent as plaintiffs in "Law Against Discrimination" actions brought in Superior Court. This amendment is necessary because case law suggested, in dicta, that the director's authority to award compensatory damages after an administrative proceeding is limited. See, Maczik v. Gilford Park Yacht Club, 271 N.J. Super. 439, 448 n.3

(App. Div. 1994). Under this bill, victims of discrimination would be entitled to obtain equivalent remedies to compensate them for injuries related to the discrimination, regardless of the forum in which they filed.