

46:8-52 to 46:8-64
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2021 **CHAPTER:** 110

NJSA: 46:8-52 to 46:8-64 ("Fair Chance in Housing Act"; establishes certain housing rights of persons with criminal records.)

BILL NO: S250 (Substituted for A1919 (4R))

SPONSOR(S) Singleton, Troy and others

DATE INTRODUCED: 1/14/2020

COMMITTEE: **ASSEMBLY:** ---

SENATE: Community & Urban Affairs

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 6/3/2021

SENATE: 6/3/2021

DATE OF APPROVAL: 6/18/2021

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Third Reprint enacted) Yes

S250

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes Community & Urban Affairs

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes 3/25/2021
6/3/2021

LEGISLATIVE FISCAL ESTIMATE: No

A1919 (4R)

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Housing 12/7/2020
Housing 5/5/2021
Appropriations

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes 5/20/2021

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: Yes

Public hearing before Assembly Housing Committee: "the Committee will receive testimony from the public and invited guests concerning affordable housing, and landlord and tenant issues", February 19, 2020.

Library call number: 974.90 H842, 2020a

Available online at <https://hdl.handle.net/10929/57075>

NEWSPAPER ARTICLES: Yes

SHELLY, MOLLY. "Announcement 'soon' on Bader's future Development of Atlantic City's Bader Field in the works." Press of Atlantic City, The (NJ), June 26, 2021: 2A.

RH/CL

P.L. 2021, CHAPTER 110, *approved June 18, 2021*
Senate, No. 250 (*Third Reprint*)

1 AN ACT concerning the housing rights of ²certain² persons ³**[²**,
2 including persons²]³ with criminal records and ³**[²persons who**
3 face discrimination based on immigration status, credit history,
4 gender identity, source of income, and involvement in certain
5 landlord-tenant actions, and²]³ supplementing ³**[**P.L.1945, c.169
6 (C.10:5-1 et seq.) ², and amending various parts of the statutory
7 law²] chapter 8 of Title 46 of the Revised Statutes³.

8
9 **BE IT ENACTED** by the Senate and General Assembly of the State
10 of New Jersey:

11
12 ³**[**1. ²**[**This act**]** (New section) Sections 1 through 12 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill)² shall be
14 known and may be cited as the “Fair Chance in Housing Act.”³**]**³

15
16 ³**[**1². ²(New section)² The Legislature finds and declares that:

17 a. Recent research indicates that New Jersey suffers from a
18 tragically high 36-month recidivism rate of over 30 percent;

19 b. Housing instability appears to impact recidivism, considering
20 that over one in 10 prisoners in the United States face homelessness
21 upon release;

22 c. Research from other states indicates a substantial increase in
23 the likelihood of a parolee’s arrest following each change in
24 address, further supporting the conclusion that when ex-convicts are
25 unable to find stable housing, recidivism becomes more likely and
26 public safety is diminished;

27 d. Prior to the 1990s when popular guidance documents began
28 advising landlords to conduct criminal background checks on
29 prospective tenants, criminal background information was not
30 widely-available and convenient to landlords for informing rental
31 decisions, but many landlords were nonetheless able to maintain
32 safe and healthy rental properties; and

33 e. It is, therefore, necessary and in the public interest for the
34 Legislature to enact legislation to supplement the “Law Against
35 Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.), for the purpose
36 of establishing certain housing rights of persons with criminal
37 records.¹³

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCU committee amendments adopted July 16, 2020.

²Senate floor amendments adopted March 25, 2021.

³Assembly floor amendments adopted June 3, 2021.

1 ¹[2.] ³[3. ¹ ²(New section)² As used in ²[this act] sections 1
2 through 12 of P.L. , c. (C.) (pending before the Legislature
3 as this bill)²:

4 "Applicant" means any person considered for, who requests to be
5 considered for, or who requests to be considered for tenancy within
6 a rental dwelling unit.

7 "Conditional offer" means an offer to rent or lease a rental
8 dwelling unit to an applicant that is contingent on a subsequent
9 inquiry into the applicant's criminal record, or any other eligibility
10 criteria that the housing provider may lawfully utilize.

11 "Criminal record" means information ²about an individual²
12 collected by criminal justice agencies ²[on individuals]² consisting
13 of identifiable descriptions and notations of arrests, detentions,
14 indictments, ²criminal complaints,² or other formal criminal
15 charges, and any disposition arising therefrom, including acquittal,
16 sentencing, correctional supervision, release or conviction,
17 including, but not limited to, any sentence arising from a verdict or
18 plea of guilty or nolo contendere, including a sentence of
19 incarceration, a suspended sentence, a sentence of probation, or a
20 sentence of conditional discharge.

21 ²"Director" means the Director of the Division on Civil Rights.

22 ²"Division" means the Division on Civil Rights in the Department
23 of Law and Public Safety.²

24 "Housing provider" means a landlord, an owner, lessor,
25 sublessor, assignee, or their agent, or any other person receiving or
26 entitled to receive rents or benefits for the use or occupancy of any
27 rental dwelling unit.

28 "Pending criminal accusation" means an existing accusation that
29 an individual has committed a crime, lodged by a law enforcement
30 agency through an indictment, information, complaint, or other
31 formal charge.

32 "Rental dwelling unit" means a dwelling unit offered for rent by
33 a housing provider for residential purposes, other than a dwelling
34 unit in an owner-occupied premises of not more than three dwelling
35 units.]³

36
37 ¹[3.] ³[4. ¹ ²(New section)² a. (1) A housing provider shall not
38 require an applicant to complete any housing application that
39 includes any inquiries regarding an applicant's criminal record prior
40 to the provision of a conditional offer ¹, except that a housing
41 provider may consider whether an applicant has ever been
42 convicted of drug-related criminal activity for the manufacture or
43 production of methamphetamine on the premises of federally
44 assisted housing, and whether the applicant is subject to a lifetime
45 registration requirement under a State sex offender registration
46 program¹.

1 (2) A housing provider shall not make any oral or written
2 inquiry regarding an applicant's criminal record prior to making a
3 conditional offer.

4 (3) An applicant may provide evidence to the housing provider
5 demonstrating inaccuracies within the applicant's criminal record or
6 evidence of rehabilitation or other mitigating factors.

7 b. ¹~~Notwithstanding the provisions of subsection a. of this~~
8 section, if an applicant discloses any information regarding the
9 applicant's criminal record, by voluntary oral or written disclosure,
10 prior to the conditional offer, the housing provider may make
11 inquiries regarding the applicant's criminal record prior to making
12 the conditional offer.

13 c. ¹Prior to accepting any application fee, a housing provider
14 shall disclose in writing to the applicant:

15 (1) Whether the eligibility criteria of the housing provider
16 include the review and consideration of criminal history; and

17 (2) A statement that the applicant, pursuant to subsection a. of
18 this section, may provide evidence demonstrating inaccuracies
19 within the applicant's criminal record or evidence of rehabilitation
20 or other mitigating factors.

21 ¹~~d.~~ ²~~c.~~ A housing provider shall not, either before or after
22 the issuance of a conditional offer, evaluate an applicant based on
23 any of the following types of criminal records:

24 (1) arrests or charges that have not resulted in a criminal
25 conviction;

26 (2) expunged convictions;

27 (3) convictions on appeal;

28 (4) vacated and otherwise legally nullified convictions;

29 (5) juvenile adjudications of delinquency;

30 (6) records that have been sealed; and

31 (7) criminal convictions arising for conduct committed outside
32 of the State that, if committed within the State, would not constitute
33 an indictable offense.

34 d.¹ After the issuance of a conditional offer to an applicant, a
35 housing provider may only consider a criminal record in the
36 applicant's history that:

37 (1) ² ¹~~has occurred within~~ ²~~resulted in a conviction that was~~
38 issued within, or if the conviction resulted in a prison sentence that
39 sentence concluded within, ¹ the² ¹~~10~~ ²~~three~~¹ years immediately
40 preceding the issuance of the conditional offer ; and

41 (2) consists of a ² ¹~~pending criminal accusation or a~~¹
42 ~~criminal conviction that, pursuant to subsection b. of~~
43 N.J.S.2C:52-2, is not eligible for expungement.

44 e. ² ¹~~(1)~~ ²~~A housing provider may withdraw a conditional~~
45 offer based on an applicant's criminal record only if the housing
46 provider determines, ² ¹~~on balance~~ ²~~by clear and convincing~~
47 evidence¹, that the withdrawal ² ¹~~achieves a substantial,~~

1 legitimate, nondiscriminatory interest. (2) **2** is necessary, because
 2 the applicant's criminal conduct renders the applicant unfit for the
 3 housing arrangement applied for.¹ The housing provider's
 4 determination of **2** ¹ a nondiscriminatory interest **2** unfitness for
 5 housing¹ shall be reasonable in light of the following factors: **2**

6 ¹ **2** (1)¹ The nature and severity of the criminal offense; **2**

7 ¹ **2** (2)¹ The age of the applicant at the time of the
 8 occurrence of the criminal offense; **2**

9 ¹ **2** (3)¹ The time which has elapsed since the occurrence of
 10 the criminal offense; **2**

11 ¹ **2** (4)¹ Any information produced by the applicant, or
 12 produced on the applicant's behalf, in regard to the applicant's
 13 rehabilitation and good conduct since the occurrence of the criminal
 14 offense; **2**

15 ¹ **2** (5)¹ The degree to which the criminal offense, if it
 16 reoccurred, would negatively impact the safety of the housing
 17 provider's other tenants or property; **2** ¹ and

18 **2** (6)¹ Whether the criminal offense occurred on or was
 19 connected to property that was rented or leased by the applicant ¹;

20 (7) Whether the offense arose from an applicant's status as a
 21 survivor of domestic violence, sexual assault, stalking or dating
 22 violence;

23 (8) Whether the offense arose from an applicant's mental illness
 24 or other disability; and

25 (9) If the applicant was under the influence of alcohol or illegal
 26 drugs at the time of the offense, whether the applicant is in
 27 recovery, or has recovered and rehabilitated, from the associated
 28 addiction. Evidence of recovery and rehabilitation shall include, at
 29 a minimum:

30 (a) the satisfactory compliance of an applicant with the terms
 31 and conditions of parole or probation, provided that the failure of
 32 the person to pay fines, fees, and restitution shall not be considered
 33 noncompliance with terms and conditions of parole or probation;

34 (b) educational attainment or vocational or professional training,
 35 or employment since conviction, including training received or
 36 employment while incarcerated;

37 (c) completion of, or active participation in, rehabilitative
 38 treatment, including alcohol or drug treatment; and

39 (d) letters of recommendation from community organizations,
 40 counselors, case managers, teachers, faith leaders, community
 41 leaders, parole officers, and probation officers who have observed
 42 the applicant¹.

43 **2** ¹ **2** f.¹ **2** (1)¹ **2** If a housing provider withdraws a conditional
 44 offer, the housing provider shall provide the applicant¹, free of
 45 charge,¹ with ¹ a¹ written notification that includes, with
 46 specificity **2** ¹ **2** :

1 (1) an explanation of what was concluded on each of the factors
 2 considered pursuant to subsection f. of this section;

3 (2)¹ the reason or reasons for the withdrawal of the conditional
 4 offer]² ¹[and] ²];

5 (3) a copy of the criminal records and other information that the
 6 housing provider relied on to inform the decision;

7 (4)¹ a notice ¹, in both English and Spanish,¹ that advises the
 8 applicant of the applicant's right to file a complaint with the
 9 Attorney General pursuant to section]² ¹[6 of this act] ²[9 of
 10 P.L. , c. (C.) (pending before the Legislature as this bill);
 11 and

12 (5) a written offer, provided in Spanish, to provide the applicant
 13 with the explanations required pursuant to paragraphs (1) and (2) of
 14 this subsection in Spanish, if that is the applicant's primary
 15 language¹.]²

16 ¹[(2) (a) The applicant may request, within 20 days after the
 17 housing provider's notice of the withdrawal, that the housing
 18 provider afford the applicant a copy of all information that the
 19 housing provider relied upon in considering the applicant, including
 20 criminal records.

21 (b) A housing provider shall provide the information requested
 22 under subparagraph (a) of this paragraph, free of charge, within 10
 23 days after receipt of a timely request.

24 g. Nothing set forth in this act shall be construed to prohibit a
 25 housing provider from requiring an applicant to complete a housing
 26 application that includes any inquiries regarding an applicant's
 27 criminal record after the conditional offer is provided or from
 28 making any oral or written inquiries regarding an applicant's
 29 criminal record after the conditional offer is provided. The
 30 provisions of this section shall not preclude a housing provider from
 31 refusing to provide housing to an applicant based upon the
 32 applicant's criminal record, unless the criminal record or relevant
 33 portion thereof has been expunged or erased through executive
 34 pardon, provided that such refusal is consistent with other
 35 applicable laws, rules and regulations]² [g.] c.² A housing provider
 36 shall apply the standards established by this section to each
 37 applicant in a nondiscriminatory manner¹.]³

38
 39 ³[²⁵. (New section) a. A housing provider shall not, either
 40 before or after the issuance of a conditional offer, evaluate an
 41 applicant based on any of the following types of criminal records:

42 (1) arrests or charges that have not resulted in a criminal
 43 conviction;

44 (2) expunged convictions;

45 (3) convictions erased through executive pardon;

46 (4) vacated and otherwise legally nullified convictions;

47 (5) juvenile adjudications of delinquency; and

- 1 (6) records that have been sealed.
- 2 b. After the issuance of a conditional offer to an applicant, a
3 housing provider may only consider a criminal record in the
4 applicant's history that:
- 5 (1) resulted in a conviction for murder, aggravated sexual
6 assault, kidnapping, arson, human trafficking, or any crime that
7 resulted in lifetime registration in a state sex offender registry;
- 8 (2) is for an indictable offense of the first degree that was
9 issued, or if the conviction resulted in a prison sentence that
10 sentence concluded, within the six years immediately preceding the
11 issuance of the conditional offer;
- 12 (3) is for an indictable offense of the second or third degree that
13 was issued, or if the conviction resulted in a prison sentence that
14 concluded, within the four years immediately preceding the
15 issuance of the conditional offer; or
- 16 (4) is for an indictable offense of the fourth degree that was
17 issued, or if the conviction resulted in a prison sentence that
18 concluded, within one year immediately preceding the issuance of
19 the conditional offer.
- 20 c. (1) a housing provider may withdraw a conditional offer
21 based on an applicant's criminal record only if the housing provider
22 determines, by preponderance of the evidence, that the withdrawal
23 is necessary to fulfill a substantial, legitimate, and
24 nondiscriminatory interest.
- 25 (2) if a housing provider withdraws a conditional offer, the
26 housing provider shall provide the applicant with written
27 notification that includes, with specificity, the reason or reasons for
28 the withdrawal of the conditional offer and an opportunity to appeal
29 the denial by providing evidence to the housing provider
30 demonstrating inaccuracies within the applicant's criminal record or
31 evidence of rehabilitation or other mitigating factors.
- 32 (3) the housing provider shall perform an individualized
33 assessment of the application in light of the following factors:
- 34 (a) the nature and severity of the criminal offense;
- 35 (b) the age of the applicant at the time of the occurrence of the
36 criminal offense;
- 37 (c) the time which has elapsed since the occurrence of the
38 criminal offense;
- 39 (d) any information produced by the applicant, or produced on
40 the applicant's behalf, in regard to the applicant's rehabilitation and
41 good conduct since the occurrence of the criminal offense;
- 42 (e) the degree to which the criminal offense, if it reoccurred,
43 would negatively impact the safety of the housing provider's other
44 tenants or property; and
- 45 (f) whether the criminal offense occurred on or was connected to
46 property that was rented or leased by the applicant.
- 47 d. (1) the applicant may request, within 30 days after the
48 housing provider's notice of the withdrawal, that the housing

1 provider afford the applicant a copy of all information that the
 2 housing provider relied upon in considering the applicant, including
 3 criminal records.

4 (2) a housing provider shall provide the information requested
 5 under paragraph (1) of this subsection, free of charge, within 10
 6 days after receipt of a timely request.²]³

7
 8 ³[²6. (New section) a. The director shall prepare:

9 (1) a model disclosure statement as indicated in subsection b. of
 10 section 4 of P.L. c. (C.) (pending before the Legislature as
 11 this bill) which provides notice that a housing provider intends to
 12 review and consider a person's criminal record in determining
 13 eligibility for housing or in taking any other adverse housing action
 14 against that person. The statement shall also provide an explanation
 15 of the criminal records that may be considered and the manner in
 16 which they may be considered, in accordance with the provisions of
 17 section 5 of P.L. c. (C.) (pending before the Legislature as
 18 this bill). The statement shall also notify the person of the right to
 19 dispute, within 10 days of receiving such statement, the relevance
 20 and accuracy of the criminal record and to offer evidence of any
 21 mitigating facts or circumstances, including but not limited to the
 22 person's rehabilitation and good conduct since the criminal offense
 23 in question; and

24 (2) a model notice that provides notice that a housing provider
 25 has withdrawn a conditional offer or taken an adverse housing
 26 action based on a person's criminal record, provides space for the
 27 housing provider to identify with specificity the reason or reasons
 28 for withdrawing the conditional offer or taking the adverse housing
 29 action. The notification form shall also notify the person of the
 30 right to request from the housing provider a copy of all information
 31 upon which the housing provider relied in reaching its decision,
 32 including criminal records, and of the right to file a complaint with
 33 the Attorney General or pursue the other remedies pursuant to
 34 P.L.1945, c.169 (C.10:5-1 et seq.), as well as the applicable statute
 35 of limitations, and shall include such other additional information as
 36 the director deems appropriate.

37 b. The model documents prepared pursuant to this section shall
 38 be made available on the division's Internet website, at no cost, and
 39 shall be in English, Spanish, and in any other language the director
 40 deems appropriate.²]³

41
 42 ¹[⁴. Unless otherwise permitted or required by law, a] ²[⁵.]
 43 ³[⁷. (New section)² a. A¹ housing provider shall not knowingly or
 44 purposefully publish, or cause to be published, any housing
 45 advertisement that explicitly provides that the housing provider will
 46 not consider any applicant who has been arrested or convicted of
 47 one or more crimes or offenses ¹, except for drug-related criminal

1 activity for the manufacture or production of methamphetamine on
2 the premises of federally assisted housing, and whether the
3 applicant is subject to a lifetime registration requirement under a
4 State sex offender registration program.

5 b. ²A housing provider shall not print, publish, circulate, issue,
6 display, post, or mail, or cause to be printed, published, circulated,
7 issued, displayed, posted or mailed any statement, advertisement,
8 publication or sign, or use any form of application for the rental,
9 lease, or sublease of any real property or part or portion thereof or
10 make any record or inquiry in connection with the prospective
11 rental, lease, or sublease of any real property or part or portion
12 thereof which expresses, directly or indirectly, any unlawful
13 limitation, specification or discrimination as to criminal record,
14 except as permitted by this act and for drug-related criminal activity
15 for the manufacture or production of methamphetamine on the
16 premises of federally assisted housing, and whether the applicant is
17 subject to a lifetime registration requirement under a State sex
18 offender registration program.

19 c. ² Unless otherwise required by law, a housing provider shall
20 not:

21 (1) distribute or disseminate an applicant's criminal record to
22 any person who is not expected to use the criminal record for the
23 purpose of evaluating the applicant in a manner consistent with
24 sections 1 through 12 of P.L. c. (C.) (pending before the
25 Legislature as this bill); or

26 (2) use an applicant's criminal record for a purpose that is not
27 consistent with sections 1 through 12 of P.L. c. (C.)
28 (pending before the Legislature as this bill).¹ ³

29
30 ³[²8. (New section) To encourage residential landlords to
31 provide housing opportunities to formerly incarcerated individuals,
32 landlords subject to the provisions of sections 1 through 12 of
33 P.L. c. (C.) (pending before the Legislature as this bill) shall
34 be immune from liability in any civil action arising as a result of the
35 landlord's decision to rent to individuals with a criminal record or
36 who were otherwise convicted of a criminal offense, or as a result
37 of a landlord's decision to not engage in a criminal background
38 screening.² ³

39
40 ¹[5. This act shall not apply:
41 a. If a federal law or regulation requires the housing provider
42 to consider an applicant's criminal records for residential leasing
43 purposes; or
44 b. If a federal law or regulation otherwise allows for the denial
45 of an applicant due to certain criminal convictions.]¹

46

1 ²[¹6.] ³[⁹. (New section)² A housing provider shall not require
2 an applicant to submit to a drug or alcohol test, or request the
3 applicant's consent to obtain information from a drug abuse
4 treatment facility.¹]³

5
6 ²[¹7.] ³[¹⁰. (New section)² A person shall not interfere with,
7 restrain, or deny the exercise of, or the attempt to exercise, any right
8 protected under ²sections 1 through 12 of² P.L. , c. (C.)
9 (pending before the Legislature as this bill). It shall be a rebuttable
10 presumption of unlawful retaliation if a housing provider or any
11 other person takes an adverse action against a person within 90 days
12 of the person's exercise of the rights protected in ²sections 1
13 through 12 of² P.L. , c. (C.) (pending before the Legislature
14 as this bill). This rebuttable presumption shall be sufficient to
15 establish unlawful retaliation, unless the housing provider or other
16 person is able to demonstrate that the action would have been taken
17 in the absence of such protected activity.¹]³

18
19 ²[¹8.] ³[¹¹. (New section)² The ²[**Division on Civil Rights**]
20 division² shall maintain data on the number of complaints filed
21 pursuant to ²sections 1 through 12 of² P.L. , c. (C.)
22 (pending before the Legislature as this bill), demographic
23 information on the ²[**complaints**] complainants² , the identity of the
24 housing providers, the number of investigations conducted, and the
25 disposition of every complaint and investigation, which shall be
26 published and posted online annually.¹]³

27
28 ¹[⁶.] ²[⁹.¹ a. A person claiming to be aggrieved pursuant to
29 this act may file a complaint or action with the Division on Civil
30 Rights or in the Superior Court of New Jersey alleging a] ³[¹².
31 (New section) ²A violation ²of sections 1 through 12 of P.L. ,
32 c. (C.) (pending before the Legislature as this bill) shall
33 constitute unlawful discrimination under section 11² of the "Law
34 Against Discrimination," P.L.1945, c.169 ²[(C.10:5-1 et seq.).

35 b. Any housing provider who violates this act shall be liable for
36 a civil penalty in an amount not to exceed \$1,000 for the first
37 violation, \$5,000 for the second violation, and \$10,000 for each
38 subsequent violation collectible by the Attorney General in a
39 summary proceeding pursuant to the "Penalty Enforcement Law of
40 1999," P.L.1999, c.274 (C.2A:58-10 et seq.)] ²[(C.10:5-12)².]³

41
42 ³[²13. (New section) a. Any person, including but not limited
43 to, any owner, lessee, sublessee, assignee or managing agent of, or
44 other person having the right of ownership or possession of or the
45 right to sell, rent, lease, assign, or sublease any real property or part

1 or portion thereof, real estate broker, real estate salesperson, or
2 employee or agent of any of these, who refuses to rent or lease, or
3 refuses to offer to rent or lease, any real property or portion thereof
4 based on a prospective tenant's involvement in a landlord-tenant
5 action that resulted in a final judgment against the prospective
6 tenant within three years of the effective date of the prospective
7 rental or lease agreement, shall provide the prospective tenant with
8 written notification, provided using a model notification form made
9 available on the division's Internet website pursuant to subsection c.
10 of this section, in which the person includes, with specificity and in
11 the language the applicant best understands from among English,
12 Spanish or any other language in which the division has made the
13 model disclosure form available pursuant to subsection c. of this
14 section, the reason or reasons for the refusal to rent or lease or offer
15 to rent or lease to the prospective tenant.

16 b. Where there is no final judgment against a prospective tenant
17 within three years of the effective date of the prospective rental or
18 lease agreement, there shall be a rebuttable presumption that a
19 person is in violation of paragraph (6) of subsection g. or paragraph
20 (6) of subsection h. of section 11 of P.L.1945, c.169 (C.10:5-12), as
21 the case may be, if it is established that the person requested
22 information from a tenant screening bureau relating to the
23 prospective tenant or otherwise inspected court records relating to
24 the prospective tenant which disclose a past or pending landlord-
25 tenant action and the person subsequently refuses to rent or lease or
26 offer to rent or lease to the prospective tenant.

27 c. (1) the division shall prepare a model notification form as
28 indicated in subsection a. of this section which provides notice to a
29 prospective tenant that a person refuses to rent or lease, or refuses
30 to offer to rent or lease, any real property or portion thereof and
31 provides space for the person to identify with specificity the reason
32 or reasons for the refusal to rent or lease or offer to rent or lease to
33 the prospective tenant. The notification form shall also advise the
34 prospective tenant of the right to file a complaint with the Attorney
35 General or pursue the other remedies pursuant to P.L.1945, c.169
36 (C.10:5-1 et seq.), as well as the applicable statute of limitations,
37 and shall include such other information as the director deems
38 appropriate.

39 (2) the model notification form prepared pursuant to this
40 subsection shall be made available on the division's Internet
41 website, at no cost, and shall be in English, Spanish, and in any
42 other language the director deems appropriate.²¹³

1 ³[²14. (New section) a. It shall not be an unlawful
 2 discrimination under P.L.1945, c. 169 (C.10:5-1 et seq.), for any
 3 person to discriminate on the basis of immigration or citizenship
 4 status, or to make any inquiry as to a person’s immigration or
 5 citizenship status, or to give preference to a person who is a citizen
 6 or national of the United States over an equally qualified person
 7 who is a not a citizen or national of the United States, when such
 8 discrimination, inquiry, or preference is required or expressly
 9 permitted by federal or state law or regulation. The provisions of
 10 P.L.1945, c.169 (C.10:5-1 et seq.) shall not be interpreted to
 11 prohibit inquiries or determinations based on immigration or
 12 citizenship status when such actions are necessary to obtain the
 13 benefits of a federal or State program.

14 b. The provisions of P.L.1945, c.169 (C.10:5-1 et seq.), shall not
 15 be interpreted to prohibit disclosures of information regarding or
 16 relating to the immigration or citizenship status of a person, where
 17 required or expressly permitted by federal or State law or regulation
 18 or when in compliance with any legal obligation under a subpoena,
 19 warrant issued by a court, or order issued by a court.

20 c. The provisions of P.L.1945, c.169 (C.10:5-1 et seq.), shall not
 21 be interpreted to prohibit verification of immigration or citizenship
 22 status or any discrimination based upon verified immigration or
 23 citizenship status, where required or expressly permitted by federal
 24 or State law or regulation. The provisions of P.L.1945, c.169
 25 (C.10:5-1 et seq.), shall not be construed to alter an employer’s
 26 rights or obligations under the federal “Immigration and Nationality
 27 Act,” 8 U.S.C. s.1324a, regarding obtaining documentation
 28 evidencing identity and authorization for employment. Any action
 29 taken by an employer that is required by 8 U.S.C. s.1324a is not a
 30 violation of P.L.1945, c.169 (C.10:5-1 et seq.).²³

31
 32 ³[²15. Section 3 of P.L.1945, c.169 (C.10:5-3) is amended to
 33 read as follows:

34 3. The Legislature finds and declares that practices of
 35 discrimination against any of its inhabitants, because of race, creed,
 36 color, national origin, immigration or citizenship status, ancestry,
 37 age, sex, gender identity **[or]** gender expression, affectional or
 38 sexual orientation, marital status, familial status, liability for service
 39 in the Armed Forces of the United States, disability **[or]** ,
 40 nationality, source of lawful income used for rental or mortgage
 41 payments, or criminal record, are matters of concern to the
 42 government of the State, and that such discrimination threatens not
 43 only the rights and proper privileges of the inhabitants of the State
 44 but menaces the institutions and foundation of a free democratic
 45 State; provided, however, that nothing in this expression of policy

1 prevents the making of legitimate distinctions between citizens and
2 aliens when required by federal law or otherwise necessary to
3 promote the national interest.

4 The Legislature further declares its opposition to such practices
5 of discrimination when directed against any person by reason of the
6 race, creed, color, national origin, immigration or citizenship status,
7 ancestry, age, sex, gender identity **[or]** gender expression,
8 affectional or sexual orientation, marital status, liability for service
9 in the Armed Forces of the United States, disability **[or]** ,
10 nationality, source of lawful income used for rental or mortgage
11 payments, or criminal record of that person or that person's family
12 members, partners, members, stockholders, directors, officers,
13 managers, superintendents, agents, employees, business associates,
14 suppliers, or customers, in order that the economic prosperity and
15 general welfare of the inhabitants of the State may be protected and
16 ensured.

17 The Legislature further finds that because of discrimination,
18 people suffer personal hardships, and the State suffers a grievous
19 harm. The personal hardships include: economic loss; time loss;
20 physical and emotional stress; and in some cases severe emotional
21 trauma, illness, homelessness or other irreparable harm resulting
22 from the strain of employment controversies; relocation, search and
23 moving difficulties; anxiety caused by lack of information,
24 uncertainty, and resultant planning difficulty; career, education,
25 family and social disruption; and adjustment problems, which
26 particularly impact on those protected by this act. Such harms
27 have, under the common law, given rise to legal remedies, including
28 compensatory and punitive damages. The Legislature intends that
29 such damages be available to all persons protected by this act and
30 that this act shall be liberally construed in combination with other
31 protections available under the laws of this State.²

32 (cf: P.L.2019, c.436, s.1)³

33

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

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

38 a. "Person" includes one or more individuals, partnerships,
39 associations, organizations, labor organizations, corporations, legal
40 representatives, trustees, trustees in bankruptcy, receivers, and
41 fiduciaries.

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

44 c. "Labor organization" includes any organization which exists
45 and is constituted for the purpose, in whole or in part, of collective
46 bargaining, or of dealing with employers concerning grievances,

- 1 terms or conditions of employment, or of other mutual aid or
2 protection in connection with employment.
- 3 d. "Unlawful employment practice" and "unlawful
4 discrimination" include only those unlawful practices and acts
5 specified in section 11 of P.L.1945, c.169 (C.10:5-12).
- 6 e. "Employer" includes all persons as defined in subsection a.
7 of this section unless otherwise specifically exempt under another
8 section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State,
9 any political or civil subdivision thereof, and all public officers,
10 agencies, boards, or bodies.
- 11 f. "Employee" does not include any individual employed in the
12 domestic service of any person.
- 13 g. "Liability for service in the Armed Forces of the United
14 States" means subject to being ordered as an individual or member
15 of an organized unit into active service in the Armed Forces of the
16 United States by reason of membership in the National Guard, naval
17 militia or a reserve component of the Armed Forces of the United
18 States, or subject to being inducted into such armed forces through
19 a system of national selective service.
- 20 h. "Division" means the "Division on Civil Rights" created by
21 P.L.1945, c.169 (C.10:5-1 et seq.).
- 22 i. "Attorney General" means the Attorney General of the State
23 of New Jersey or the Attorney General's representative or designee.
- 24 j. "Commission" means the Commission on Civil Rights
25 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 26 k. "Director" means the Director of the Division on Civil
27 Rights.
- 28 l. "A place of public accommodation" shall include, but not be
29 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
30 summer camp, day camp, or resort camp, whether for entertainment
31 of transient guests or accommodation of those seeking health,
32 recreation, or rest; any producer, manufacturer, wholesaler,
33 distributor, retail shop, store, establishment, or concession dealing
34 with goods or services of any kind; any restaurant, eating house, or
35 place where food is sold for consumption on the premises; any
36 place maintained for the sale of ice cream, ice and fruit preparations
37 or their derivatives, soda water or confections, or where any
38 beverages of any kind are retailed for consumption on the premises;
39 any garage, any public conveyance operated on land or water or in
40 the air or any stations and terminals thereof; any bathhouse,
41 boardwalk, or seashore accommodation; any auditorium, meeting
42 place, or hall; any theatre, motion-picture house, music hall, roof
43 garden, skating rink, swimming pool, amusement and recreation
44 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
45 pool parlor, or other place of amusement; any comfort station; any
46 dispensary, clinic, or hospital; any public library; and any
47 kindergarten, primary and secondary school, trade or business
48 school, high school, academy, college and university, or any

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

15 m. "A publicly assisted housing accommodation" shall include
16 all 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,
19 c.184, and all housing financed in whole or in part by a loan,
20 whether or not secured by a mortgage, the repayment of which is
21 guaranteed or insured by the federal government or any agency
22 thereof.

23 n. The term "real property" includes real estate, lands,
24 tenements and hereditaments, corporeal and incorporeal, and
25 leaseholds, provided, however, that, except as to publicly assisted
26 housing accommodations and except as set forth in paragraphs (2)
27 and (3) of subsection g. and paragraph (3) of subsection h. of
28 section 11 of P.L.1945, c.169 (C.10:5-12), the provisions of this act
29 shall not apply to the rental **【**: (1) of a single apartment or flat in a
30 two-family dwelling, the other occupancy unit of which is occupied
31 by the owner as a residence; or (2)**】** of a room or rooms to another
32 person or persons by the owner or occupant of a one-family
33 dwelling occupied by the owner or occupant as a residence at the
34 time of such rental. Nothing herein contained shall be construed to
35 bar any religious or denominational institution or organization, or
36 any organization operated for charitable or educational purposes,
37 which is operated, supervised, or controlled by or in connection
38 with a religious organization, in the sale, lease, or rental of real
39 property, from limiting admission to or giving preference to persons
40 of the same religion or denomination or from making such selection
41 as is calculated by such organization to promote the religious
42 principles for which it is established or maintained. Nor does any
43 provision under this act regarding discrimination on the basis of
44 familial status apply with respect to housing for older persons.

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

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

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

35 q. "Disability" means physical or sensory disability, infirmity,
36 malformation, or disfigurement which is caused by bodily injury,
37 birth defect, or illness including epilepsy and other seizure
38 disorders, and which shall include, but not be limited to, any degree
39 of paralysis, amputation, lack of physical coordination, blindness or
40 visual impairment, deafness or hearing impairment, muteness or
41 speech impairment, or physical reliance on a service or guide dog,
42 wheelchair, or other remedial appliance or device, or any mental,
43 psychological, or developmental disability, including autism
44 spectrum disorders, resulting from anatomical, psychological,
45 physiological, or neurological conditions which prevents the typical
46 exercise of any bodily or mental functions or is demonstrable,
47 medically or psychologically, by accepted clinical or laboratory

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

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

- 1 jj. "Homosexuality" means affectional, emotional, or physical
2 attraction or behavior which is primarily directed towards persons
3 of the same gender.
- 4 kk. "Bisexuality" means affectional, emotional, or physical
5 attraction or behavior which is directed towards persons of either
6 gender.
- 7 ll. "Familial status" means being the natural parent of a child,
8 the adoptive parent of a child, the resource family parent of a child,
9 having a "parent and child relationship" with a child as defined by
10 State law, or having sole or joint legal or physical custody, care,
11 guardianship, or visitation with a child, or any person who is
12 pregnant or is in the process of securing legal custody of any
13 individual who has not attained the age of 18 years.
- 14 mm. "Housing for older persons" means housing:
- 15 (1) provided under any State program that the Attorney General
16 determines is specifically designed and operated to assist persons
17 who are elderly (as defined in the State program); or provided under
18 any federal program that the United States Department of Housing
19 and Urban Development determines is specifically designed and
20 operated to assist persons who are elderly (as defined in the federal
21 program); or
- 22 (2) intended for, and solely occupied by, persons 62 years of age
23 or older; or
- 24 (3) intended and operated for occupancy by at least one person
25 55 years of age or older per unit. In determining whether housing
26 qualifies as housing for older persons under this paragraph, the
27 Attorney General shall adopt regulations which require at least the
28 following factors:
- 29 (a) the existence of significant facilities and services
30 specifically designed to meet the physical or social needs of older
31 persons, or if the provision of such facilities and services is not
32 practicable, that such housing is necessary to provide important
33 housing opportunities for older persons; and
- 34 (b) that at least 80 percent of the units are occupied by at least
35 one person 55 years of age or older per unit; and
- 36 (c) the publication of, and adherence to, policies and procedures
37 which demonstrate an intent by the owner or manager to provide
38 housing for persons 55 years of age or older.
- 39 Housing shall not fail to meet the requirements for housing for
40 older persons by reason of: persons residing in such housing as of
41 September 13, 1988 not meeting the age requirements of this
42 subsection, provided that new occupants of such housing meet the
43 age requirements of this subsection; or unoccupied units, provided
44 that such units are reserved for occupancy by persons who meet the
45 age requirements of this subsection.
- 46 nn. "Genetic characteristic" means any inherited gene or
47 chromosome, or alteration thereof, that is scientifically or medically
48 believed to predispose an individual to a disease, disorder, or

- 1 syndrome, or to be associated with a statistically significant
2 increased risk of development of a disease, disorder, or syndrome.
- 3 oo. "Genetic information" means the information about genes,
4 gene products, or inherited characteristics that may derive from an
5 individual or family member.
- 6 pp. "Genetic test" means a test for determining the presence or
7 absence of an inherited genetic characteristic in an individual,
8 including tests of nucleic acids such as DNA, RNA, and
9 mitochondrial DNA, chromosomes, or proteins in order to identify a
10 predisposing genetic characteristic.
- 11 qq. "Domestic partnership" means a domestic partnership
12 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).
- 13 **【**rr. "Gender identity or expression" means having or being
14 perceived as having a gender related identity or expression whether
15 or not stereotypically associated with a person's assigned sex at
16 birth.**】** (Deleted by amendment, P.L. , c. (pending before the
17 Legislature as this bill)
- 18 ss. "Civil Union" means a legally recognized union of two
19 eligible individuals established pursuant to R.S.37:1-1 et seq. and
20 P.L.2006, c.103 (C.37:1-28 et al.).
- 21 tt. "Premium wages" means additional remuneration for night,
22 weekend, or holiday work, or for standby or irregular duty.
- 23 uu. "Premium benefit" means an employment benefit, such as
24 seniority, group life insurance, health insurance, disability
25 insurance, sick leave, annual leave, or an educational or pension
26 benefit that is greater than the employment benefit due the
27 employee for an equivalent period of work performed during the
28 regular work schedule of the employee.
- 29 vv. "Race" is inclusive of traits historically associated with race,
30 including, but not limited to, hair texture, hair types, and protective
31 hairstyles.
- 32 ww."Protective hairstyles" includes, but is not limited to, such
33 hairstyles as braids, locks, and twists.
- 34 xx. "Family member" means a child, parent, parent-in-law,
35 sibling, grandparent, grandchild, spouse, partner in a civil union
36 couple, domestic partner, or any other individual related by blood to
37 the person, and any other individual that the person shows to have a
38 close association with the person which is the equivalent of a family
39 relationship.
- 40 yy. "Source of lawful income" means any source of income
41 lawfully obtained or any source of rental or mortgage payment
42 lawfully obtained, including, but not limited to, any federal, State,
43 or local public assistance or housing assistance voucher or funds,
44 including Section 8 housing choice vouchers, temporary rental
45 assistance programs or State rental assistance programs; rental
46 assistance funds provided by a nonprofit organization; federal,
47 State, or local benefits, including disability benefits and veterans'
48 benefits; court-ordered payments, including, but not limited to,

1 child support, alimony, or damages; and any form of lawful
 2 currency tendered, without regard to whether such currency is
 3 tendered in the form of cash, check, money order, or other lawful
 4 means.

5 zz. “Consumer credit history” means an individual’s
 6 creditworthiness, credit standing, credit capacity, and borrowing or
 7 payment history, as indicated by: (1) a consumer credit report; (2) a
 8 credit score; or (3) information a person obtains directly from the
 9 individual regarding (i) details about credit accounts, including the
 10 individual’s number of credit accounts, late or missed payments,
 11 charged-off debts, items in collections, credit limit, or prior credit
 12 report inquiries, or (ii) bankruptcies, judgments, or liens. As used
 13 in this subsection, a consumer credit report shall include any written
 14 or other communication of any information by a consumer reporting
 15 agency that bears on a consumer’s creditworthiness, credit standing,
 16 credit capacity or credit history.

17 aaa. “Criminal record” means information about individuals
 18 collected by criminal justice agencies consisting of identifiable
 19 descriptions and notations of arrests, detentions, indictments,
 20 criminal complaints or other formal criminal charges, and any
 21 disposition arising therefrom, including acquittal, sentencing,
 22 correctional supervision, release or conviction, including, but not
 23 limited to, any conviction or sentence arising from a verdict or plea
 24 of guilty or nolo contendere, including a sentence of incarceration, a
 25 suspended sentence, a sentence of probation, or a sentence of
 26 conditional discharge.²

27 (cf: P.L.2019, c.436, s.2)]³

28

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

31 8. The Attorney General shall:

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

34 b. Administer the work of the division.

35 c. Organize the division into sections, which shall include but
 36 not be limited to a section which shall receive, investigate, and act
 37 upon complaints alleging discrimination against persons because of
 38 race, creed, color, national origin, immigration or citizenship status,
 39 ancestry, age, marital status, affectional or sexual orientation,
 40 gender identity **[or]** , gender expression, familial status, disability,
 41 nationality **[or]** , sex, criminal record or source of lawful income
 42 used for rental or mortgage payments, or because of their liability
 43 for service in the Armed Forces of the United States; and another
 44 which shall, in order to eliminate prejudice and to further good will
 45 among the various racial and religious and nationality groups in this
 46 State, study, recommend, prepare and implement, in cooperation
 47 with such other departments of the State Government or any other

1 agencies, groups or entities both public and private, such
2 educational and human relations programs as are consonant with the
3 objectives of this act; and prescribe the organization of said sections
4 and the duties of **[his]** the Attorney General's subordinates and
5 assistants.

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

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

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

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

24 h. Conduct investigations, receive complaints and conduct
25 hearings thereon other than those complaints received and hearings
26 held pursuant to the provisions of this act.

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

41 j. Issue such publications and such results of investigations
42 and research tending to promote good will and to minimize or
43 eliminate discrimination because of race, creed, color, national
44 origin, immigration or citizenship status, ancestry, age, marital
45 status, affectional or sexual orientation, gender identity **[or]** ,
46 gender expression, familial status, disability, nationality **[or]** , sex,
47 criminal record or source of lawful income used for rental or

1 mortgage payments, as the commission shall direct, subject to
2 available appropriations.

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

5 l. Appoint, subject to the approval of the commission, a panel
6 of not more than five hearing examiners, each of whom shall be
7 duly licensed to practice law in this State for a period of at least five
8 years, and each to serve for a term of one year and until his
9 successor is appointed, any one of whom the director may designate
10 in his place to conduct any hearing and recommend findings of fact
11 and conclusions of law. The hearing examiners shall receive such
12 compensation as may be determined by the Attorney General,
13 subject to available appropriations.²

14 (cf: P.L.2006, c.100, s.6)]³

15

16 ³[²18. Section 1 of P.L.1954, c.198 (C.10:5-9.1) is amended to
17 read as follows:

18 1. The Division on Civil Rights in the Department of Law and
19 Public Safety shall enforce the laws of this State against
20 discrimination in housing built with, or leased with the assistance
21 of, public funds or public assistance, pursuant to any law, and in
22 real property, as defined in the law hereby supplemented, because
23 of race, religious principles, color, national origin, immigration or
24 citizenship status, ancestry, marital status, affectional or sexual
25 orientation, familial status, disability, liability for service in the
26 Armed Forces of the United States, nationality, sex, gender identity
27 **[or]** , gender expression, criminal record or source of lawful
28 income used for rental or mortgage payments. The said laws shall
29 be so enforced in the manner prescribed in **[the act to which this act**
30 **is a supplement]** P.L.1945, c.169 (C.10:5-1 et seq.).²

31 (cf: P.L.2017, c.184, s.2)]³

32

33 ³[²19. Section 9 of P.L.1945, c.169 (C.10:5-10) is amended to
34 read as follows:

35 9. The commission shall:

36 a. Consult with and advise the Attorney General with respect to
37 the work of the division.

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

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

42 The mayors or chief executive officers of the municipalities in
43 the State may appoint local commissions on civil rights to aid in
44 effectuating the purposes of this act. Such local commissions shall
45 be composed of representative citizens serving without
46 compensation. Such commissions shall attempt to foster through
47 community effort or otherwise, good will, cooperation and

1 conciliation among the groups and elements of the inhabitants of
2 the community, and they may be empowered by the local governing
3 bodies to make recommendations to them for the development of
4 policies and procedures in general and for programs of formal and
5 informal education that will aid in eliminating all types of
6 discrimination based on race, creed, color, national origin,
7 immigration or citizenship status, ancestry, age, marital status,
8 affectional or sexual orientation, gender identity **[or]** , gender
9 expression, familial status, disability, nationality **[or]** , sex , or
10 criminal record.²

11 (cf: P.L.2006, c.100, s.8)**】**³

12

13 ³**【**²20. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to
14 read:

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

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

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

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

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

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

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

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

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

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

31 d. For any person to take reprisals against any person because
32 that person has opposed any practices or acts forbidden under this
33 act or because that person has sought legal advice regarding rights
34 under this act, shared relevant information with legal counsel,
35 shared information with a governmental entity, or filed a complaint,
36 testified or assisted in any proceeding under this act or to coerce,
37 intimidate, threaten or interfere with any person in the exercise or
38 enjoyment of, or on account of that person having aided or
39 encouraged any other person in the exercise or enjoyment of, any
40 right granted or protected by this act.

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

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

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

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

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

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

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

16 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
17 to deny to or withhold from any person or group of persons any real
18 property or part or portion thereof because of race, creed, color,
19 national origin, immigration or citizenship status except to the
20 extent permitted under section 14 of P.L. , c. (C.) (pending
21 before the Legislature as this bill), ancestry, marital status, civil
22 union status, domestic partnership status, pregnancy or
23 breastfeeding, sex, gender identity **[or]** , gender expression,
24 affectional or sexual orientation, familial status, disability, liability
25 for service in the Armed Forces of the United States, nationality,
26 criminal record except to the extent permitted under sections 1
27 through 12 of P.L. , c. (C.) (pending before the Legislature
28 as this bill), or source of lawful income used for rental or mortgage
29 payments;

30 (2) To discriminate against any person or group of persons
31 because of race, creed, color, national origin, immigration or
32 citizenship status except to the extent permitted under section 14 of
33 P.L. , c. (C.) (pending before the Legislature as this bill),
34 ancestry, marital status, civil union status, domestic partnership
35 status, pregnancy or breastfeeding, sex, gender identity **[or]** ,
36 gender expression, affectional or sexual orientation, familial status,
37 disability, liability for service in the Armed Forces of the United
38 States, nationality, criminal record except to the extent permitted
39 under sections 1 through 12 of P.L. , c. (C.) (pending before
40 the Legislature as this bill), or source of lawful income used for
41 rental or mortgage payments in the terms, conditions or privileges
42 of the sale, rental or lease of any real property or part or portion
43 thereof or in the furnishing of facilities or services in connection
44 therewith; notwithstanding subsection n. of P.L.1945, c.169
45 (C.10:5-5), for purposes of claims brought under this subsection
46 alleging that any owner or other person having the right of
47 ownership or possession is liable for an unlawful discrimination
48 because an individual was subjected to unlawful harassment based

1 on any category protected under this paragraph, the definition of
2 “real property” shall include the rental of a room or rooms to
3 another person or persons by the owner or occupant of a one-family
4 dwelling occupied by the owner or occupant as a residence at the
5 time of such rental;

6 (3) To print, publish, circulate, issue, display, post or mail, or
7 cause to be printed, published, circulated, issued, displayed, posted
8 or mailed any statement, advertisement, publication or sign, or to
9 use any form of application for the purchase, rental, lease,
10 assignment or sublease of any real property or part or portion
11 thereof or, notwithstanding subsection n. of P.L.1945, c.169
12 (C.10:5-5), for the rental of a room or rooms to another person or
13 persons by the owner or occupant of a one-family dwelling
14 occupied by the owner or occupant as a residence at the time of
15 such rental, or to make any record or inquiry in connection with the
16 prospective purchase, rental, lease, assignment, or sublease of any
17 real property, or part or portion thereof or, notwithstanding
18 subsection n. of P.L.1945, c.169 (C.10:5-5), for the rental of a room
19 or rooms to another person or persons by the owner or occupant of a
20 one-family dwelling occupied by the owner or occupant as a
21 residence at the time of such rental, which expresses, directly or
22 indirectly, any limitation, specification or discrimination as to race,
23 creed, color, national origin, immigration or citizenship status
24 except to the extent permitted under section 14 of P.L. _____,
25 c. (C. _____)(pending before the Legislature as this bill), ancestry,
26 marital status, civil union status, domestic partnership status,
27 pregnancy or breastfeeding, sex, gender identity **【or】** , gender
28 expression, affectional or sexual orientation, familial status,
29 disability, liability for service in the Armed Forces of the United
30 States, nationality, criminal record except to the extent permitted
31 under sections 1 through 12 of P.L. _____, c. (C. _____) (pending before
32 the Legislature as this bill), or source of lawful income used for
33 rental or mortgage payments, or any intent to make any such
34 limitation, specification or discrimination, and the production of
35 any such statement, advertisement, publicity, sign, form of
36 application, record, or inquiry purporting to be made by any such
37 person shall be presumptive evidence in any action that the same
38 was authorized by such person; provided, however, that nothing
39 contained in this subsection shall be construed to bar any person
40 from refusing to sell, rent, lease, assign or sublease or from
41 advertising or recording a qualification as to **【sex】** gender for any
42 room, apartment, flat in a dwelling or residential facility which is
43 planned exclusively for and occupied by individuals of one **【sex】**
44 gender to any individual of **【the exclusively opposite sex】** a
45 different gender on the basis of sex provided individuals shall be
46 qualified based on their gender identity or gender expression;

47 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
48 to deny to or withhold from any person or group of persons any real

1 property or part or portion thereof because of the source of any
 2 lawful income received by the person or the source of any lawful
 3 rent payment to be paid for the real property, including, but not
 4 limited to, by refusing to accept as payment any source of lawful
 5 income or by applying, in assessing eligibility for the rental of
 6 housing, any minimum income requirement or financial or
 7 consumer credit history-related standard that is not based only on
 8 the portion of the rent to be paid by the tenant; [or]

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

16 (6) To refuse to rent or lease, or to refuse to offer to rent or
 17 lease, any real property or portion thereof to a prospective tenant
 18 because the prospective tenant was involved in a past or pending
 19 landlord-tenant action unless such action resulted in a final
 20 judgment against the prospective tenant within three years of the
 21 effective date of the prospective rental or lease agreement, and
 22 subject to the provisions of section 13 of P.L. _____,
 23 c. (C. _____)(pending before the Legislature as this bill);

24 (7) To make any inquiry regarding or based on the immigration
 25 or citizenship status of a tenant, occupant, or prospective tenant or
 26 occupant of residential rental property, or to require that any such
 27 person disclose or make any statement, representation, or
 28 certification concerning such person's immigration or citizenship
 29 status, except to the extent permitted under section 14 of P.L. _____,
 30 c. (C. _____) (pending before the Legislature as this bill); or

31 (8) To threaten to disclose or actually disclose information
 32 regarding or relating to the immigration or citizenship status of a
 33 tenant, occupant, prospective tenant or occupant, or other person
 34 known to be associated with a tenant, occupant, or prospective
 35 tenant or occupant, for the purpose of, or with the intent of,
 36 harassing or intimidating a tenant, occupant, or prospective tenant
 37 or occupant; influencing a tenant or occupant to vacate a dwelling;
 38 recovering possession of a dwelling from a tenant or occupant; or
 39 taking reprisals against a tenant, occupant, or prospective tenant or
 40 occupant under subsection d. of this section.

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

43 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
 44 sale, rental, lease, assignment, or sublease any real property or part
 45 or portion thereof to any person or group of persons because of
 46 race, creed, color, national origin, immigration or citizenship status
 47 except to the extent permitted under section 14 of P.L. _____,
 48 c. (C. _____) (pending before the Legislature as this bill), ancestry,

1 marital status, civil union status, domestic partnership status,
 2 familial status, pregnancy or breastfeeding, sex, gender identity
 3 **【or】**, gender expression, affectional or sexual orientation, liability
 4 for service in the Armed Forces of the United States,
 5 disability, nationality, criminal record except to the extent
 6 permitted under sections 1 through 12 of P.L. , c. (C.)
 7 (pending before the Legislature as this bill), or source of lawful
 8 income used for rental or mortgage payments, or to represent that
 9 any real property or portion thereof is not available for inspection,
 10 sale, rental, lease, assignment, or sublease when in fact it is so
 11 available, or otherwise to deny or withhold any real property or any
 12 part or portion of facilities thereof to or from any person or group of
 13 persons because of race, creed, color, national origin, immigration
 14 or citizenship status except to the extent permitted under section 14
 15 of P.L. , c. (C.) (pending before the Legislature as this bill),
 16 ancestry, marital status, civil union status, domestic partnership
 17 status, familial status, pregnancy or breastfeeding, sex, gender
 18 identity **【or】**, gender expression, affectional or sexual orientation,
 19 disability, liability for service in the Armed Forces of the United
 20 States, **【or】** nationality, criminal record except to the extent
 21 permitted under sections 1 through 12 of P.L. , c. (C.)
 22 (pending before the Legislature as this bill), or source of lawful
 23 income used for rental or mortgage payments;

24 (2) To discriminate against any person because of race, creed,
 25 color, national origin, immigration or citizenship status except to
 26 the extent permitted under section 14 of P.L. ,
 27 c. (C.)(pending before the Legislature as this bill), ancestry,
 28 marital status, civil union status, domestic partnership status,
 29 familial status, pregnancy or breastfeeding, sex, gender identity
 30 **【or】**, gender expression, affectional or sexual orientation,
 31 disability, liability for service in the Armed Forces of the United
 32 States, nationality, criminal record except to the extent permitted
 33 under sections 1 through 12 of P.L. , c. (C.) (pending before
 34 the Legislature as this bill), or source of lawful income used for
 35 rental or mortgage payments in the terms, conditions or privileges
 36 of the sale, rental, lease, assignment or sublease of any real property
 37 or part or portion thereof or in the furnishing of facilities or services
 38 in connection therewith;

39 (3) To print, publish, circulate, issue, display, post, or mail, or
 40 cause to be printed, published, circulated, issued, displayed, posted
 41 or mailed any statement, advertisement, publication or sign, or to
 42 use any form of application for the purchase, rental, lease,
 43 assignment, or sublease of any real property or part or portion
 44 thereof or, notwithstanding subsection n. of P.L.1945, c.169
 45 (C.10:5-5), for the rental of a room or rooms to another person or
 46 persons by the owner or occupant of a one-family dwelling
 47 occupied by the owner or occupant as a residence at the time of
 48 such rental, or to make any record or inquiry in connection with the

1 prospective purchase, rental, lease, assignment, or sublease of any
 2 real property or part or portion thereof or, notwithstanding
 3 subsection n. of P.L.1945, c.169 (C.10:5-5), for the rental of a
 4 room or rooms to another person or persons by the owner or
 5 occupant of a one-family dwelling occupied by the owner or
 6 occupant as a residence at the time of such rental, which expresses,
 7 directly or indirectly, any limitation, specification or discrimination
 8 as to race, creed, color, national origin, immigration or citizenship
 9 status except to the extent permitted under section 14 of P.L. ,
 10 c. (C.) (pending before the Legislature as this bill), ancestry,
 11 marital status, civil union status, domestic partnership status,
 12 familial status, pregnancy or breastfeeding, sex, gender identity
 13 **[or]** gender expression, affectional or sexual orientation,
 14 disability, liability for service in the Armed Forces of the United
 15 States, nationality, criminal record except to the extent permitted
 16 under sections 1 through 12 of P.L. , c. (C.) (pending before
 17 the Legislature as this bill), or source of lawful income used for
 18 rental or mortgage payments or any intent to make any such
 19 limitation, specification or discrimination, and the production of
 20 any such statement, advertisement, publicity, sign, form of
 21 application, record, or inquiry purporting to be made by any such
 22 person shall be presumptive evidence in any action that the same
 23 was authorized by such person; provided, however, that nothing
 24 contained in this subsection h., shall be construed to bar any person
 25 from refusing to sell, rent, lease, assign or sublease or from
 26 advertising or recording a qualification as to **[sex]** gender for any
 27 room, apartment, flat in a dwelling or residential facility which is
 28 planned exclusively for and occupied exclusively by individuals of
 29 one **[sex]** gender to any individual of **[the opposite sex]** a different
 30 gender on the basis of sex or gender, provided individuals shall be
 31 qualified based on their gender identity or gender expression;

32 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
 33 to deny to or withhold from any person or group of persons any real
 34 property or part or portion thereof because of the source of any
 35 lawful income received by the person or the source of any lawful
 36 rent payment to be paid for the real property, including, but not
 37 limited to, by refusing to accept as payment any source of lawful
 38 income, or by applying, in assessing eligibility for the rental of
 39 housing, any minimum income requirement or financial or
 40 consumer credit history-related standard that is not based only on
 41 the portion of the rent to be paid by the tenant; **[or]**

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

1 (6) To refuse to rent or lease, or to refuse to offer to rent or
2 lease, any real property or portion thereof to a prospective tenant
3 because the prospective tenant was involved in a past or pending
4 landlord-tenant action unless such action resulted in a final
5 judgment against the prospective tenant within three years of the
6 effective date of the prospective rental or lease agreement, and
7 subject to the provisions of section 13 of P.L. , c. (C.)
8 (pending before the Legislature as this bill);

9 (7) To make any inquiry regarding or based on the immigration
10 or citizenship status of a tenant, occupant, or prospective tenant or
11 occupant of residential rental property, or to require that any such
12 person disclose or make any statement, representation, or
13 certification concerning such person's immigration or citizenship
14 status, except to the extent permitted under section 14 of P.L. ,
15 c. (C.) (pending before the Legislature as this bill); or

16 (8) To threaten to disclose or actually disclose information
17 regarding or relating to the immigration or citizenship status of a
18 tenant, occupant, prospective tenant or occupant, or other person
19 known to be associated with a tenant, occupant, or prospective
20 tenant or occupant, for the purpose of, or with the intent of,
21 harassing or intimidating a tenant, occupant, or prospective tenant
22 or occupant; influencing a tenant or occupant to vacate a dwelling;
23 recovering possession of a dwelling from a tenant or occupant; or
24 taking reprisals against a tenant, occupant, or prospective tenant or
25 occupant under subsection d. of this section.

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

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

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

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

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

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

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

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

25 k. For any real estate broker, real estate salesperson or
26 employee or agent thereof or any other individual, corporation,
27 partnership, or organization, for the purpose of inducing a
28 transaction for the sale or rental of real property from which
29 transaction such person or any of its members may benefit
30 financially, to represent that a change has occurred or will or may
31 occur in the composition with respect to race, creed, color, national
32 origin, immigration or citizenship status except to the extent
33 permitted under section 14 of P.L. , c. (C.) (pending before the
34 Legislature as this bill), ancestry, marital status, civil union status,
35 domestic partnership status, familial status, pregnancy or
36 breastfeeding, sex, gender identity **【or】** , gender expression,
37 affectional or sexual orientation, disability, liability for service in
38 the Armed Forces of the United States, nationality, criminal record
39 except to the extent permitted under sections 1 through 12 of
40 P.L. , c. (C.) (pending before the Legislature as this bill), or
41 source of lawful income used for rental or mortgage payments of
42 the owners or occupants in the block, neighborhood or area in
43 which the real property is located, and to represent, directly or
44 indirectly, that this change will or may result in undesirable
45 consequences in the block, neighborhood or area in which the real
46 property is located, including, but not limited to the lowering of
47 property values, an increase in criminal or anti-social behavior, or a
48 decline in the quality of schools or other facilities.

1 1. For any person to refuse to buy from, sell to, lease from or
2 to, license, contract with, or trade with, provide goods, services or
3 information to, or otherwise do business with any other person on
4 the basis of the race, creed, color, national origin, ancestry, age,
5 pregnancy or breastfeeding, sex, gender identity or expression,
6 affectional or sexual orientation, marital status, civil union status,
7 domestic partnership status, liability for service in the Armed
8 Forces of the United States, disability, nationality, or source of
9 lawful income used for rental or mortgage payments of such other
10 person or of such other person's family members, partners,
11 members, stockholders, directors, officers, managers,
12 superintendents, agents, employees, business associates, suppliers,
13 or customers. This subsection shall not prohibit refusals or other
14 actions (1) pertaining to employee-employer collective bargaining,
15 labor disputes, or unfair labor practices, or (2) made or taken in
16 connection with a protest of unlawful discrimination or unlawful
17 employment practices.

18 m. For any person to:

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

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

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

46 n. For any person to aid, abet, incite, compel, coerce, or induce
47 the doing of any act forbidden by subsections l. and m. of section

- 1 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
2 do so. Such prohibited conduct shall include, but not be limited to:
- 3 (1) Buying from, selling to, leasing from or to, licensing,
4 contracting with, trading with, providing goods, services, or
5 information to, or otherwise doing business with any person
6 because that person does, or agrees or attempts to do, any such act
7 or any act prohibited by this subsection; or
- 8 (2) Boycotting, commercially blacklisting or refusing to buy
9 from, sell to, lease from or to, license, contract with, provide goods,
10 services or information to, or otherwise do business with any person
11 because that person has not done or refuses to do any such act or
12 any act prohibited by this subsection; provided that this subsection
13 shall not prohibit refusals or other actions either pertaining to
14 employee-employer collective bargaining, labor disputes, or unfair
15 labor practices, or made or taken in connection with a protest of
16 unlawful discrimination or unlawful employment practices.
- 17 o. For any multiple listing service, real estate brokers'
18 organization or other service, organization or facility related to the
19 business of selling or renting dwellings to deny any person access
20 to or membership or participation in such organization, or to
21 discriminate against such person in the terms or conditions of such
22 access, membership, or participation, on account of race, creed,
23 color, national origin, ancestry, age, marital status, civil union
24 status, domestic partnership status, familial status, pregnancy or
25 breastfeeding, sex, gender identity or expression, affectional or
26 sexual orientation, disability, liability for service in the Armed
27 Forces of the United States or nationality.
- 28 p. Nothing in the provisions of this section shall affect the
29 ability of an employer to require employees to adhere to reasonable
30 workplace appearance, grooming and dress standards not precluded
31 by other provisions of State or federal law, except that an employer
32 shall allow an employee to appear, groom and dress consistent with
33 the employee's gender identity or expression.
- 34 q. (1) For any employer to impose upon a person as a condition
35 of obtaining or retaining employment, including opportunities for
36 promotion, advancement or transfers, any terms or conditions that
37 would require a person to violate or forego a sincerely held
38 religious practice or religious observance, including but not limited
39 to the observance of any particular day or days or any portion
40 thereof as a Sabbath or other holy day in accordance with the
41 requirements of the religion or religious belief, unless, after
42 engaging in a bona fide effort, the employer demonstrates that it is
43 unable to reasonably accommodate the employee's religious
44 observance or practice without undue hardship on the conduct of the
45 employer's business. Notwithstanding any other provision of law to
46 the contrary, an employee shall not be entitled to premium wages or
47 premium benefits for work performed during hours to which those
48 premium wages or premium benefits would ordinarily be

1 applicable, if the employee is working during those hours only as an
2 accommodation to his religious requirements. Nothing in this
3 subsection q. shall be construed as reducing:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 Comparisons of wage rates shall be based on wage rates in all of
7 an employer's operations or facilities. For the purposes of this
8 subsection, "member of a protected class" means an employee who
9 has one or more characteristics, including race, creed, color,
10 national origin, nationality, ancestry, age, marital status, civil union
11 status, domestic partnership status, affectional or sexual orientation,
12 genetic information, pregnancy, sex, gender identity or expression,
13 disability or atypical hereditary cellular or blood trait of any
14 individual, or liability for service in the armed forces, for which
15 subsection a. of this section prohibits an employer from refusing to
16 hire or employ or barring or discharging or requiring to retire from
17 employment or discriminating against the individual in
18 compensation or in terms, conditions or privileges of employment.²

19 (cf: P.L.2019, c.436, s.3)]³

20
21 ³[²21. Section 12 of P.L.1992, c.146 (C.10:5-12.5) is amended
22 to read as follows:

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

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

40 (cf: P.L.2019, c.436, s.4)]³

41
42 ³[²22. Section 2 of P.L.1983, c.412 (C.10:5-14.1a) is amended
43 to read as follows:

44 2. Any person who violates any of the provisions of the "Law
45 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), shall,
46 in addition to any other relief or affirmative action provided by law,
47 be liable for the following penalties:

1 a. In an amount not exceeding **[\$10,000]** the greater of
 2 \$25,000 or the maximum civil penalty amount provided for
 3 violations of the federal “Fair Housing Act,” 42 U.S.C. ss. 3601 et
 4 seq., if the respondent has not been adjudged to have committed any
 5 prior violation within the five-year period ending on the date of the
 6 filing of this charge;

7 b. In an amount not exceeding **[\$25,000]** the greater of \$50,000
 8 or the maximum civil penalty amount provided for violations of the
 9 federal “Fair Housing Act,” 42 U.S.C. ss. 3601 et seq., if the
 10 respondent has been adjudged to have committed one other
 11 violation within the five-year period ending on the date of the filing
 12 of this charge; and

13 c. In an amount not exceeding **[\$50,000]** the greater of
 14 \$100,000 or the maximum civil penalty amount provided for
 15 violations of the federal “Fair Housing Act,” 42 U.S.C. ss. 3601 et
 16 seq., if the respondent has been adjudged to have committed two or
 17 more violations within the seven-year period ending on the date of
 18 the filing of this charge.

19 d. The penalties shall be determined by the director in such
 20 amounts as **[he]** the director deems proper under the circumstances
 21 and included in **[his]** the director’s order following **[his]** the
 22 director’s finding of an unlawful discrimination or an unlawful
 23 employment practice pursuant to section 16 of P.L.1945, c.169
 24 (C.10:5-17). Any such amounts collected by the director shall be
 25 paid forthwith into the State Treasury for the general purposes of
 26 the State.²

27 (cf: P.L.2019, c.436, s.7)]³
 28

29 ¹**[7.]** ²**[10.1]** ³**[23. (New section)]**² In accordance with the
 30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 31 seq.), the Attorney General ¹**[may]** shall¹ adopt the rules and
 32 regulations necessary to effectuate the purposes of ¹**[this act]**
 33 P.L. c. , (C.) (pending before the Legislature as this bill) on
 34 or before the first day of the fifth month next following
 35 enactment^{1.}]³
 36

37 ¹**[8.]** ²**[11.1]** ³**[24.2]**² This act shall take effect on the first day of
 38 the seventh month next following the date of enactment, but the
 39 Attorney General may take any anticipatory administrative action in
 40 advance as shall be necessary for the implementation of this act.]³
 41

42 ³1. This act shall be known and may be cited as the “Fair
 43 Chance in Housing Act.”³
 44

45 ³2. The Legislature finds and declares that:

1 a. Recent research indicates that New Jersey suffers from a
2 tragically high 36-month recidivism rate of over 30 percent;

3 b. Housing instability appears to impact recidivism, considering
4 that over one in 10 prisoners in the United States face homelessness
5 upon release;

6 c. Research from other states indicates a substantial increase in
7 the likelihood of a parolee's arrest following each change in
8 address, further supporting the conclusion that when ex-convicts are
9 unable to find stable housing, recidivism becomes more likely and
10 public safety is diminished;

11 d. Prior to the 1990s when popular guidance documents began
12 advising landlords to conduct criminal background checks on
13 prospective tenants, criminal background information was not
14 widely-available and convenient to landlords for informing rental
15 decisions, but many landlords were nonetheless able to maintain
16 safe and healthy rental properties; and

17 e. It is, therefore, necessary and in the public interest for the
18 Legislature to enact legislation for the purpose of establishing
19 certain housing rights of persons with criminal records.³

20
21 ³3. As used in this act:

22 "Applicant" means any person considered for, who requests to be
23 considered for, or who requests to be considered for tenancy within
24 a rental dwelling unit.

25 "Conditional offer" means an offer to rent or lease a rental
26 dwelling unit to an applicant that is contingent on a subsequent
27 inquiry into the applicant's criminal record, or any other eligibility
28 criteria that the housing provider may lawfully utilize.

29 "Criminal record" means information about an individual
30 collected by criminal justice agencies consisting of identifiable
31 descriptions and notations of arrests, detentions, indictments,
32 criminal complaints, or other formal criminal charges, and any
33 disposition arising therefrom, including acquittal, sentencing,
34 correctional supervision, release or conviction, including, but not
35 limited to, any sentence arising from a verdict or plea of guilty or
36 nolo contendere, including a sentence of incarceration, a suspended
37 sentence, a sentence of probation, or a sentence of conditional
38 discharge.

39 "Director" means the Director of the Division on Civil Rights.

40 "Division" means the Division on Civil Rights in the Department
41 of Law and Public Safety.

42 "Housing provider" means a landlord, an owner, lessor,
43 sublessor, assignee, or their agent, or any other person receiving or
44 entitled to receive rents or benefits for the use or occupancy of any
45 rental dwelling unit.

46 "Pending criminal accusation" means an existing accusation that
47 an individual has committed a crime, lodged by a law enforcement

1 agency through an indictment, information, complaint, or other
2 formal charge.

3 “Rental dwelling unit” means a dwelling unit offered for rent by
4 a housing provider for residential purposes, other than a dwelling
5 unit in an owner-occupied premises of not more than four dwelling
6 units.³

7
8 ³4. a. (1) A housing provider shall not require an applicant to
9 complete any housing application that includes any inquiries
10 regarding an applicant’s criminal record prior to the provision of a
11 conditional offer, except that a housing provider may consider
12 whether an applicant has ever been convicted of drug-related
13 criminal activity for the manufacture or production of
14 methamphetamine on the premises of federally assisted housing,
15 and whether the applicant is subject to a lifetime registration
16 requirement under a State sex offender registration program.

17 (2) A housing provider shall not make any oral or written
18 inquiry regarding an applicant’s criminal record prior to making a
19 conditional offer.

20 (3) An applicant may provide evidence to the housing provider
21 demonstrating inaccuracies within the applicant's criminal record or
22 evidence of rehabilitation or other mitigating factors.

23 b. Prior to accepting any application fee, a housing provider
24 shall disclose in writing to the applicant:

25 (1) Whether the eligibility criteria of the housing provider
26 include the review and consideration of criminal history; and

27 (2) A statement that the applicant, pursuant to subsection a. of
28 this section, may provide evidence demonstrating inaccuracies
29 within the applicant's criminal record or evidence of rehabilitation
30 or other mitigating factors.

31 c. A housing provider shall apply the standards established by
32 this section to each applicant in a nondiscriminatory manner.³

33
34 ³5. a. A housing provider shall not, either before or after the
35 issuance of a conditional offer, evaluate an applicant based on any
36 of the following types of criminal records:

37 (1) arrests or charges that have not resulted in a criminal
38 conviction;

39 (2) expunged convictions;

40 (3) convictions erased through executive pardon;

41 (4) vacated and otherwise legally nullified convictions;

42 (5) juvenile adjudications of delinquency; and

43 (6) records that have been sealed.

44 b. After the issuance of a conditional offer to an applicant, a
45 housing provider may only consider a criminal record in the
46 applicant’s history that:

47 (1) resulted in a conviction for murder, aggravated sexual
48 assault, kidnapping, arson, human trafficking, sexual assault in

1 violation of N.J.S.2C:14-2, causing or permitting a child to engage
2 in a prohibited sexual act or in the simulation of such an act in
3 violation of paragraph (3) of subsection b. of N.J.S.2C:24-4, or any
4 crime that resulted in lifetime registration in a state sex offender
5 registry;

6 (2) is for an indictable offense of the first degree that was
7 issued, or if the conviction resulted in a prison sentence that
8 sentence concluded, within the six years immediately preceding the
9 issuance of the conditional offer;

10 (3) is for an indictable offense of the second or third degree that
11 was issued, or if the conviction resulted in a prison sentence that
12 sentence concluded, within the four years immediately preceding
13 the issuance of the conditional offer; or

14 (4) is for an indictable offense of the fourth degree that was
15 issued, or if the conviction resulted in a prison sentence that
16 sentence concluded, within one year immediately preceding the
17 issuance of the conditional offer.

18 c. (1) A housing provider may withdraw a conditional offer
19 based on an applicant's criminal record only if the housing provider
20 determines, by preponderance of the evidence, that the withdrawal
21 is necessary to fulfill a substantial, legitimate, and
22 nondiscriminatory interest.

23 (2) If a housing provider withdraws a conditional offer, the
24 housing provider shall provide the applicant with written
25 notification that includes, with specificity, the reason or reasons for
26 the withdrawal of the conditional offer and an opportunity to appeal
27 the denial by providing evidence to the housing provider
28 demonstrating inaccuracies within the applicant's criminal record or
29 evidence of rehabilitation or other mitigating factors.

30 (3) The housing provider shall perform an individualized
31 assessment of the application in light of the following factors:

32 (a) the nature and severity of the criminal offense;

33 (b) the age of the applicant at the time of the occurrence of the
34 criminal offense;

35 (c) the time which has elapsed since the occurrence of the
36 criminal offense;

37 (d) any information produced by the applicant, or produced on
38 the applicant's behalf, in regard to the applicant's rehabilitation and
39 good conduct since the occurrence of the criminal offense;

40 (e) the degree to which the criminal offense, if it reoccurred,
41 would negatively impact the safety of the housing provider's other
42 tenants or property; and

43 (f) whether the criminal offense occurred on or was connected to
44 property that was rented or leased by the applicant.

45 d. (1) the applicant may request, within 30 days after the
46 housing provider's notice of the withdrawal, that the housing
47 provider afford the applicant a copy of all information that the

1 housing provider relied upon in considering the applicant, including
2 criminal records.

3 (2) a housing provider shall provide the information requested
4 under paragraph (1) of this subsection, free of charge, within 10
5 days after receipt of a timely request.³

6
7 ³6. a. The director shall prepare:

8 (1) a model disclosure statement as indicated in subsection b. of
9 section 4 of this act which provides notice that a housing provider
10 intends to review and consider a person's criminal record in
11 determining eligibility for housing or in taking any other adverse
12 housing action against that person. The statement shall also provide
13 an explanation of the criminal records that may be considered and
14 the manner in which they may be considered, in accordance with
15 the provisions of section 5 of this act. The statement shall also
16 notify the person of the right to dispute, within 10 days of receiving
17 such statement, the relevance and accuracy of the criminal record
18 and to offer evidence of any mitigating facts or circumstances,
19 including but not limited to the person's rehabilitation and good
20 conduct since the criminal offense in question; and

21 (2) a model notice that provides notice that a housing provider
22 has withdrawn a conditional offer or taken an adverse housing
23 action based on a person's criminal record, provides space for the
24 housing provider to identify with specificity the reason or reasons
25 for withdrawing the conditional offer or taking the adverse housing
26 action. The notification form shall also notify the person of the
27 right to request from the housing provider a copy of all information
28 upon which the housing provider relied in reaching its decision,
29 including criminal records, and of the right to file a complaint with
30 the division, as well as the applicable statute of limitations, and
31 shall include such other additional information as the director
32 deems appropriate.

33 b. The model documents prepared pursuant to this section shall
34 be made available on the division's Internet website, at no cost, and
35 shall be in English, Spanish, and in any other language the director
36 deems appropriate.³

37
38 ³7. a. A housing provider shall not knowingly or purposefully
39 publish, or cause to be published, any housing advertisement that
40 explicitly provides that the housing provider will not consider any
41 applicant who has been arrested or convicted of one or more crimes
42 or offenses, except for drug-related criminal activity for the
43 manufacture or production of methamphetamine on the premises of
44 federally assisted housing, and whether the applicant is subject to a
45 lifetime registration requirement under a State sex offender
46 registration program.

47 b. A housing provider shall not print, publish, circulate, issue,
48 display, post, or mail, or cause to be printed, published, circulated,

1 issued, displayed, posted or mailed any statement, advertisement,
2 publication or sign, or use any form of application for the rental,
3 lease, or sublease of any real property or part or portion thereof or
4 make any record or inquiry in connection with the prospective
5 rental, lease, or sublease of any real property or part or portion
6 thereof which expresses, directly or indirectly, any unlawful
7 limitation, specification or discrimination as to criminal record,
8 except as permitted by this act and for drug-related criminal activity
9 for the manufacture or production of methamphetamine on the
10 premises of federally assisted housing, and whether the applicant is
11 subject to a lifetime registration requirement under a State sex
12 offender registration program.

13 c. Unless otherwise required by law, a housing provider shall
14 not:

15 (1) distribute or disseminate an applicant's criminal record to
16 any person who is not expected to use the criminal record for the
17 purpose of evaluating the applicant in a manner consistent with this
18 act; or

19 (2) use an applicant's criminal record for a purpose that is not
20 consistent with this act.³

21
22 ³8. a. To encourage residential landlords to provide housing
23 opportunities to formerly incarcerated individuals, landlords subject
24 to the provisions of this act shall be immune from liability in any
25 civil action arising as a result of the landlord's decision to rent to
26 individuals with a criminal record or who were otherwise convicted
27 of a criminal offense, or as a result of a landlord's decision to not
28 engage in a criminal background screening.

29 b. Nothing in subsection a. of this section shall be construed to
30 affect in any way the immunity from liability conferred by law upon
31 a landlord who rents an apartment to a person with a conviction for
32 murder, aggravated sexual assault, kidnapping, arson, human
33 trafficking, sexual assault in violation of N.J.S.2C:14-2, causing or
34 permitting a child to engage in a prohibited sexual act or in the
35 simulation of such an act in violation of paragraph (3) of subsection
36 b. of N.J.S.2C:24-4, or any crime that resulted in lifetime
37 registration in a state sex offender registry.³

38
39 ³9. A housing provider shall not require an applicant to submit
40 to a drug or alcohol test, or request the applicant's consent to obtain
41 information from a drug abuse treatment facility.³

42
43 ³10. A person shall not interfere with, restrain, or deny the
44 exercise of, or the attempt to exercise, any right protected under this
45 act. If the division determines that a housing provider has engaged
46 in one or more unlawful actions against a person with the intent of
47 retaliating for the person's filing of an action against the housing

1 provider pursuant to section 12 of this act, then each unlawful
2 retaliatory action shall be enforced, pursuant to section 12 of this
3 act, as a separate and distinct violation of this act.³
4

5 ³11. The division shall maintain data on the number of
6 complaints filed pursuant to this act, demographic information on
7 the complainants, the identity of the housing providers, the number
8 of investigations conducted, and the disposition of every complaint
9 and investigation. The division shall annually publish and post on
10 the division's Internet website, information on substantiated
11 complaints that have resulted in the issuance of a monetary penalty
12 pursuant to section 12 of this act. The division shall not publish on
13 the division's Internet website information regarding any complaint
14 against a housing provider for which the housing provider is in
15 good faith compliance with the requirements made by the director
16 pursuant to subsection a. of section 12 of this act.³
17

18 ³12. a. An action that alleges a violation of this act shall not be
19 initiated by any person in court. The director, or an applicant or
20 prospective applicant who believes that a housing provider has
21 violated a provision of this act with respect to that applicant or
22 prospective applicant, may file a complaint with the division. Upon
23 the filing of a complaint by a person other than the director, the
24 division shall make a good faith effort to notify the housing
25 provider of the alleged violation and offer the housing provider the
26 opportunity to mediate and address the complaint within 14 days of
27 receiving the notice. The division shall not subject a housing
28 provider to any penalty pursuant to subsection c. of this section if
29 the complaint is addressed pursuant to the process identified in this
30 subsection.

31 b. If the complaint is not resolved in accordance with subsection
32 a. of this section, and the division determines following an
33 investigation that the complaint is substantiated, the director shall
34 issue a monetary penalty against the housing provider and may
35 require the housing provider to take one or more of the actions
36 authorized by subsection d. of this section.

37 (1) A housing provider may appeal a final decision by the
38 director issued pursuant to this section to the Appellate Division of
39 the Superior Court.

40 (2) A complainant may appeal, to the Appellate Division of the
41 Superior Court, a finding by the director following an investigation
42 that the complaint is not substantiated, but the complainant may not
43 appeal a decision by the director not to investigate a complaint.

44 c. A housing provider who violates a provision of this act shall
45 be liable for the following applicable penalties:

46 (1) an amount not to exceed \$1,000 if the housing provider has
47 not committed any prior violation within the five-year period
48 ending on the date of the filing of the charge;

1 (2) an amount not to exceed \$5,000 if the housing provider has
2 committed one other violation within the five-year period ending on
3 the date of the filing of the charge; and

4 (3) an amount not to exceed \$10,000 if the housing provider has
5 committed two or more other violations within the seven-year
6 period ending on the date of the filing of the charge.

7 d. The director is authorized to require a housing provider to
8 take one or more of the following actions upon a finding that the
9 housing provider has violated a provision of this act:

10 (1) The director may require a housing provider to cease and
11 desist from continuing to violate this act; to communicate in writing
12 to the housing provider's employees and agents their obligations
13 under this act; and to report to the director on the manner of
14 compliance for a period not to exceed two years provided that the
15 housing provider does not commit future violations of the act;

16 (2) If a housing provider has committed at least one other
17 violation of this act within the preceding five-year period, the
18 director may require the housing provider to make a good faith
19 effort to remedy the violation with respect to the applicant when a
20 remedy is possible, by issuing a conditional offer, if the violation
21 has resulted in a failure to issue a conditional offer, or by providing
22 the same or a similar rental dwelling unit to the applicant on the
23 same terms as the prior conditional offer if the same or a similar
24 rental dwelling unit is currently or will become available, if the
25 violation has resulted in the withdrawal of a conditional offer.
26 Notwithstanding any provision of the Anti-Eviction Act, P.L.1974,
27 c.49 (C.2A:18-61.1 et seq.) to the contrary, if an appeal by a
28 housing provider is successful, and the court overturns a final
29 decision of the director that resulted in an order under this
30 paragraph, then a determination that the housing provider did not
31 violate the provisions of this act as evidenced by such successful
32 appeal shall be grounds for the housing provider to evict the former
33 applicant if that person resides in a rental dwelling unit owned by
34 the housing provider as the result of the director's order, so long as
35 the housing provider provides the applicant with at least 45 days'
36 notice prior to the eviction;

37 (3) Unless housing is provided to the applicant pursuant to
38 paragraph (2) of this subsection, the director may require that the
39 applicant's rental application fee be returned; and

40 (4) The director may require that a portion of the sum owed by
41 the housing provider pursuant to subsection c. of this section be
42 paid to the applicant in an amount not to exceed \$1,000.

43 e. Nothing herein contained shall bar, exclude or otherwise
44 affect any right or action which may exist independently of any
45 right or action created herein, including but not limited to any right
46 or action under P.L.1945, c.169 (C.10:5-1 et seq.).³

1 ³13. In accordance with the "Administrative Procedure Act,"
2 P.L.1968, c.410 (C.52:14B-1 et seq.), the director shall adopt the
3 rules and regulations necessary to effectuate the purposes of this act
4 on or before the first day of the fifth month next following
5 enactment.³

6
7 ³14. This act shall take effect on the first day of the seventh
8 month next following the date of enactment, but the division may
9 take any anticipatory administrative action in advance as shall be
10 necessary for the implementation of this act.³

11

12

13

14

15 “Fair Chance in Housing Act”; establishes certain housing rights of
16 persons with criminal records.

SENATE, No. 250

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

“Fair Chance in Housing Act”; establishes certain housing rights of persons with criminal records.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the housing rights of persons with criminal
2 records and supplementing P.L.1945, c.169 (C.10:5-1 et seq.).

3

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

6

7 1. This act shall be known and may be cited as the “Fair
8 Chance in Housing Act.”

9

10 2. As used in this act:

11 "Applicant" means any person considered for, who requests to be
12 considered for, or who requests to be considered for tenancy within
13 a rental dwelling unit.

14 “Conditional offer” means an offer to rent or lease a rental
15 dwelling unit to an applicant that is contingent on a subsequent
16 inquiry into the applicant’s criminal record, or any other eligibility
17 criteria that the housing provider may lawfully utilize.

18 “Criminal record” means information collected by criminal
19 justice agencies on individuals consisting of identifiable
20 descriptions and notations of arrests, detentions, indictments, or
21 other formal criminal charges, and any disposition arising
22 therefrom, including acquittal, sentencing, correctional supervision,
23 release or conviction, including, but not limited to, any sentence
24 arising from a verdict or plea of guilty or nolo contendere, including
25 a sentence of incarceration, a suspended sentence, a sentence of
26 probation, or a sentence of conditional discharge.

27 “Housing provider” means a landlord, an owner, lessor,
28 sublessor, assignee, or their agent, or any other person receiving or
29 entitled to receive rents or benefits for the use or occupancy of any
30 rental dwelling unit.

31 “Pending criminal accusation” means an existing accusation that
32 an individual has committed a crime, lodged by a law enforcement
33 agency through an indictment, information, complaint, or other
34 formal charge.

35 “Rental dwelling unit” means a dwelling unit offered for rent by
36 a housing provider for residential purposes, other than a dwelling
37 unit in an owner-occupied premises of not more than three dwelling
38 units.

39

40 3. a. (1) A housing provider shall not require an applicant to
41 complete any housing application that includes any inquiries
42 regarding an applicant’s criminal record prior to the provision of a
43 conditional offer.

44 (2) A housing provider shall not make any oral or written
45 inquiry regarding an applicant’s criminal record prior to making a
46 conditional offer.

- 1 (3) An applicant may provide evidence to the housing provider
2 demonstrating inaccuracies within the applicant's criminal record or
3 evidence of rehabilitation or other mitigating factors.
- 4 b. Notwithstanding the provisions of subsection a. of this
5 section, if an applicant discloses any information regarding the
6 applicant's criminal record, by voluntary oral or written disclosure,
7 prior to the conditional offer, the housing provider may make
8 inquiries regarding the applicant's criminal record prior to making
9 the conditional offer.
- 10 c. Prior to accepting any application fee, a housing provider
11 shall disclose in writing to the applicant:
- 12 (1) Whether the eligibility criteria of the housing provider
13 include the review and consideration of criminal history; and
- 14 (2) A statement that the applicant, pursuant to subsection a. of
15 this section, may provide evidence demonstrating inaccuracies
16 within the applicant's criminal record or evidence of rehabilitation
17 or other mitigating factors.
- 18 d. After the issuance of a conditional offer to an applicant, a
19 housing provider may only consider a criminal record in the
20 applicant's history that:
- 21 (1) has occurred within the 10 years immediately preceding the
22 issuance of the conditional offer; and
- 23 (2) consists of a pending criminal accusation or a criminal
24 conviction that, pursuant to subsection b. of N.J.S.2C:52-2, is not
25 eligible for expungement.
- 26 e. (1) A housing provider may withdraw a conditional offer
27 based on an applicant's criminal record only if the housing provider
28 determines, on balance, that the withdrawal achieves a substantial,
29 legitimate, nondiscriminatory interest.
- 30 (2) The housing provider's determination of a nondiscriminatory
31 interest shall be reasonable in light of the following factors:
- 32 (a) The nature and severity of the criminal offense;
- 33 (b) The age of the applicant at the time of the occurrence of the
34 criminal offense;
- 35 (c) The time which has elapsed since the occurrence of the
36 criminal offense;
- 37 (d) Any information produced by the applicant, or produced on
38 the applicant's behalf, in regard to the applicant's rehabilitation and
39 good conduct since the occurrence of the criminal offense;
- 40 (e) The degree to which the criminal offense, if it reoccurred,
41 would negatively impact the safety of the housing provider's other
42 tenants or property; and
- 43 (f) Whether the criminal offense occurred on or was connected to
44 property that was rented or leased by the applicant.
- 45 f. (1) If a housing provider withdraws a conditional offer, the
46 housing provider shall provide the applicant with written
47 notification that includes, with specificity, the reason or reasons for
48 the withdrawal of the conditional offer and a notice that advises the

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1 applicant of the applicant's right to file a complaint with the
2 Attorney General pursuant to section 6 of this act.

3 (2) (a) The applicant may request, within 20 days after the
4 housing provider's notice of the withdrawal, that the housing
5 provider afford the applicant a copy of all information that the
6 housing provider relied upon in considering the applicant, including
7 criminal records.

8 (b) A housing provider shall provide the information requested
9 under subparagraph (a) of this paragraph, free of charge, within 10
10 days after receipt of a timely request.

11 g. Nothing set forth in this act shall be construed to prohibit a
12 housing provider from requiring an applicant to complete a housing
13 application that includes any inquiries regarding an applicant's
14 criminal record after the conditional offer is provided or from
15 making any oral or written inquiries regarding an applicant's
16 criminal record after the conditional offer is provided. The
17 provisions of this section shall not preclude a housing provider from
18 refusing to provide housing to an applicant based upon the
19 applicant's criminal record, unless the criminal record or relevant
20 portion thereof has been expunged or erased through executive
21 pardon, provided that such refusal is consistent with other
22 applicable laws, rules and regulations.

23

24 4. Unless otherwise permitted or required by law, a housing
25 provider shall not knowingly or purposefully publish, or cause to be
26 published, any housing advertisement that explicitly provides that
27 the housing provider will not consider any applicant who has been
28 arrested or convicted of one or more crimes or offenses.

29

30 5. This act shall not apply:

31 a. If a federal law or regulation requires the housing provider
32 to consider an applicant's criminal records for residential leasing
33 purposes; or

34 b. If a federal law or regulation otherwise allows for the denial
35 of an applicant due to certain criminal convictions.

36

37 6. a. A person claiming to be aggrieved pursuant to this act
38 may file a complaint or action with the Division on Civil Rights or
39 in the Superior Court of New Jersey alleging a violation of the
40 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).

41 b. Any housing provider who violates this act shall be liable for
42 a civil penalty in an amount not to exceed \$1,000 for the first
43 violation, \$5,000 for the second violation, and \$10,000 for each
44 subsequent violation collectible by the Attorney General in a
45 summary proceeding pursuant to the "Penalty Enforcement Law of
46 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

1 7. In accordance with the "Administrative Procedure Act,"
2 P.L.1968, c.410 (C.52:14B-1 et seq.), the Attorney General may
3 adopt the rules and regulations necessary to effectuate the purposes
4 of this act.

5
6 8. This act shall take effect on the first day of the seventh
7 month next following the date of enactment, but the Attorney
8 General may take any anticipatory administrative action in advance
9 as shall be necessary for the implementation of this act.

10

11

12

STATEMENT

13

14 This bill establishes the "Fair Chance in Housing Act," and
15 provides certain housing rights of persons with criminal records.

16 This bill would restrict a housing provider from requiring a
17 housing applicant to complete any housing application that includes
18 any inquiries regarding the applicant's criminal records prior to the
19 provision of a conditional offer. The bill does not apply to dwelling
20 units that consist of owner-occupied premises of not more than three
21 dwelling units, and defines a "housing provider" as a landlord,
22 owner, lessor, sublessor, assignee, or their agent, or any other
23 person receiving or entitled to receive rents or benefits for the use
24 or occupancy of any residential dwelling unit. The bill defines a
25 conditional offer as an offer to rent or lease a dwelling unit to an
26 applicant that is contingent on a subsequent inquiry into the
27 applicant's criminal records, or any other eligibility criteria that
28 may be lawfully utilized.

29 Prior to accepting any application fee, the bill requires a housing
30 provider to disclose, in writing, whether or not the eligibility
31 criteria includes the review and consideration of criminal history,
32 and supply the applicant with a statement that the applicant may
33 provide evidence demonstrating inaccuracies within a criminal
34 record or evidence of rehabilitation or other mitigating factors.

35 After the issuance of a conditional offer, the bill only would
36 allow a housing provider to consider a criminal record in an
37 applicant's history that:

- 38 (1) has occurred within the last 10 years; and
39 (2) consists of a pending criminal accusation or a non-
40 expungable criminal conviction.

41 The bill allows a housing provider to withdraw a conditional
42 offer based on an applicant's criminal record only if the housing
43 provider determines, on balance, that the withdrawal achieves a
44 substantial, legitimate, nondiscriminatory interest. The bill requires
45 the housing provider's determination of a nondiscriminatory interest
46 shall be reasonable in light of the following:

- 47 (1) The nature and severity of the offense;
48 (2) The age of the applicant at the time of the offense;

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- 1 (3) The time elapsed since the offense;
- 2 (4) Any information produced regarding rehabilitation and good
3 conduct since the occurrence of the offense;
- 4 (5) The degree to which the offense, if it reoccurred, would
5 negatively impact the safety of other tenants or property; and
- 6 (6) Whether the offense occurred on or was connected to
7 property that was rented or leased by the applicant.

8 If a housing provider withdraws a conditional offer, the bill
9 requires the housing provider to provide the applicant with written
10 notification that includes the reason for the withdrawal and a notice
11 that advises the applicant of the right to file a complaint with the
12 Attorney General.

13 The bill allows the applicant to request, within 20 days after the
14 housing provider's notice of the withdrawal, that the housing
15 provider afford the applicant a copy of all information relied on in
16 considering the applicant, including criminal records. The bill
17 requires the housing provider to provide this information free of
18 charge, within 10 days after receipt of a timely request.

19 The bill would not prohibit the housing provider from inquiring
20 into the applicant's criminal record prior to making the conditional
21 offer, if the applicant first discloses any information regarding the
22 applicant's criminal records, by voluntary oral or written disclosure.

23 The bill would not prohibit a housing provider from requiring an
24 applicant to complete a housing application that inquires into the
25 applicant's criminal records after the conditional offer is provided
26 or from making other inquiries into those records at that time. The
27 bill would not preclude a housing provider from refusing to provide
28 housing to an applicant based upon the applicant's criminal records,
29 unless the criminal records or relevant portions thereof have been
30 expunged or erased through executive pardon.

31 Unless otherwise permitted or required by law, the bill prohibits
32 a housing provider from knowingly or purposefully publishing, or
33 causing to be published, any housing advertisement that explicitly
34 provides that the housing provider will not consider any applicant
35 who has been arrested or convicted of one or more crimes or
36 offenses.

37 The bill would not apply if a federal law or regulation requires
38 the housing provider to consider an applicant's criminal records for
39 the purposes of leasing a residential dwelling unit, or if a federal
40 law regulation otherwise allows for the denial of an applicant due to
41 certain criminal convictions.

42 The bill allows a person claiming to be aggrieved to file a
43 complaint or action with the Division on Civil Rights or in the
44 Superior Court of New Jersey alleging a violation of the "Law
45 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). The
46 bill would make any housing provider in violation of its provisions
47 liable for a civil penalty in an amount not to exceed \$1,000 for the
48 first violation, \$5,000 for the second violation, and \$10,000 for each

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7

1 subsequent violation collectible by the Attorney General in a
2 summary proceeding pursuant to the "Penalty Enforcement Law of
3 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

4 The bill would take effect on the first day of the seventh month
5 next following the date of enactment.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 250

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 16, 2020

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 250.

As amended, this bill establishes the “Fair Chance in Housing Act,” and provides certain housing rights of persons with criminal records.

This bill would restrict a housing provider from requiring a housing applicant to complete any housing application that includes any inquiries regarding the applicant’s criminal records prior to the provision of a conditional offer. The bill does not apply to dwelling units that consist of owner-occupied premises of not more than three dwelling units, and defines a “housing provider” as a landlord, owner, lessor, sublessor, assignee, or their agent, or any other person receiving or entitled to receive rents or benefits for the use or occupancy of any residential dwelling unit. The bill defines a conditional offer as an offer to rent or lease a dwelling unit to an applicant that is contingent on a subsequent inquiry into the applicant’s criminal records, or any other eligibility criteria that may be lawfully utilized.

Prior to accepting any application fee, the bill requires a housing provider to disclose, in writing, whether or not the eligibility criteria includes the review and consideration of criminal history, and supply the applicant with a statement that the applicant may provide evidence demonstrating inaccuracies within a criminal record or evidence of rehabilitation or other mitigating factors.

The bill prohibits a housing provider, either before or after the issuance of a conditional offer, from evaluating an applicant based on (1) arrests or charges that have not resulted in a criminal conviction; (2) expunged convictions; (3) convictions on appeal; (4) vacated and otherwise legally nullified convictions; (5) juvenile adjudications of delinquency; (6) records that have been sealed; or (7) criminal convictions arising for conduct committed outside of the State that, if committed within the State, would not constitute an indictable offense.

After the issuance of a conditional offer, the bill only would allow a housing provider to consider a criminal record in an applicant’s history that:

(1) resulted in a conviction that was issued within, or a prison sentence that concluded within, the last three years; and

(2) consists of a non-expungable criminal conviction.

The bill allows a housing provider to withdraw a conditional offer based on an applicant's criminal record only if the housing provider determines, by clear and convincing evidence, that the withdrawal is necessary, because the applicant's criminal conduct renders the applicant unfit for the housing arrangement. The bill requires the housing provider's determination of unfitness for housing must be reasonable in light of the following:

(1) The nature and severity of the offense;

(2) The age of the applicant at the time of the offense;

(3) The time elapsed since the offense;

(4) Any information produced regarding rehabilitation and good conduct since the occurrence of the offense;

(5) The degree to which the offense, if it reoccurred, would negatively impact the safety of other tenants or property;

(6) Whether the offense occurred on or was connected to property that was rented or leased by the applicant;

(7) Whether the offense arose from an applicant's status as a survivor of domestic violence, sexual assault, stalking or dating violence;

(8) Whether the offense arose from an applicant's mental illness or other disability; and

(9) If the applicant was under the influence of alcohol or illegal drugs at the time of the offense, whether the applicant is in recovery, or has recovered and rehabilitated, from the associated addiction. Evidence of recovery and rehabilitation would include, at a minimum: (a) compliance with the terms and conditions of parole or probation; (b) educational attainment or vocational or professional training, or employment since conviction; (c) completion of, or active participation in, rehabilitative treatment; and (d) letters of recommendation from community organizations, counselors, case managers, teachers, faith leaders, community leaders, parole officers, and probation officers.

If a housing provider withdraws a conditional offer, the bill requires the housing provider to provide the applicant, free of charge, with written notification that includes (1) an explanation of what was concluded on each of the factors considered pursuant to subsection f. of this section; (2) the reason for the withdrawal; (3) a copy of the criminal records and other information that the housing provider relied on to inform the decision; (4) a notice in English and Spanish that advises the applicant of the right to file a complaint with the Attorney General; and (5) a written offer, provided in Spanish, to provide the applicant with the explanations required pursuant to items (1) and (2) above in Spanish, if that is the applicant's primary language.

The bill prohibits a housing provider from knowingly or purposefully publishing, or causing to be published, any housing advertisement that explicitly provides that the housing provider will not consider any applicant who has been arrested or convicted of one or more crimes or offenses, except for drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing, and whether the applicant is subject to a lifetime registration requirement under a State sex offender registration program.

Except as otherwise required by law, the bill prohibits a housing provider from (1) distributing or disseminating an applicant's criminal record to any person who is not expected to use the criminal record for the purpose of evaluating the applicant in a manner consistent with the bill; or (2) using an applicant's criminal record for a purpose that is not consistent with the bill.

The bill would not apply if a federal law or regulation requires the housing provider to consider an applicant's criminal records for the purposes of leasing a residential dwelling unit, or if a federal law regulation otherwise allows for the denial of an applicant due to certain criminal convictions.

The bill prohibits a housing provider from requiring an applicant to submit to a drug or alcohol test, or request the applicant's consent to obtain information from a drug abuse treatment facility. The bill provides that it would constitute a rebuttable presumption of unlawful retaliation if a housing provider or any other person takes an adverse action against a person within 90 days of the person's exercise of the rights protected in the bill. This rebuttable presumption would be sufficient to establish unlawful retaliation, unless the housing provider or other person is able to demonstrate that the action would have been taken in the absence of such protected activity.

The bill allows a person claiming to be aggrieved to file a complaint or action with the Division on Civil Rights or in the Superior Court of New Jersey alleging a violation of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). The bill would make any housing provider in violation of its provisions liable for a civil penalty in an amount not to exceed \$1,000 for the first violation, \$5,000 for the second violation, and \$10,000 for each subsequent violation collectible by the Attorney General in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

The bill would require the Division on Civil Rights to maintain data on the number of complaints filed pursuant to this bill, demographic information on the complaints, the identity of the housing providers, the number of investigations conducted, and the disposition of every complaint and investigation, which would be published and posted online annually.

The bill would require the Attorney General to adopt the rules and regulations necessary to effectuate the purposes of the bill on or before the first day of the fifth month next following enactment.

The bill would take effect on the first day of the seventh month next following the date of enactment.

COMMITTEE AMENDMENTS:

The committee amendments would:

- add a findings and declarations section to the bill;
- clarify the exceptions to the bill's prohibition on a landlord's review of a tenant's criminal records;
- remove a provision from the bill that would have allowed a housing provider to make inquiries regarding an applicant's criminal record prior to a conditional offer if the applicant first voluntarily discloses information regarding their criminal record;
- specify the types of criminal records that a landlord may not review either before or after the issuance of a conditional offer;
- reduce the post-conditional offer review period from 10 years to three years;
- restrict a post-conditional offer review from concerning pending criminal accusations;
- revise both the factors that a housing provider would be required to consider before withdrawing a conditional offer, and the conditions on which the withdrawal may be made;
- revise the requirements for the notification with which a housing provider would provide an applicant upon the withdrawal of a conditional offer;
- remove a requirement for the housing provider to provide the applicant with all information relied upon in withdrawing a conditional offer following a request for this information from the applicant;
- limit the circumstances in which a housing provider may use or disseminate an applicant's criminal records;
- prohibit a housing provider from requiring an applicant to submit to a drug or alcohol test, or requesting the applicant's consent to obtain information from a drug abuse treatment facility;
- provide parameters for what may be considered unlawful retaliation in response to an applicant's exercise of a right protected under the bill;
- require the Division on Civil Rights to maintain certain information on complaints filed under the bill; and
- direct the Attorney General to adopt rules and regulations to effectuate the purposes of the bill on or before the first day of the fifth month next following enactment of the bill.

STATEMENT TO
[First Reprint]
SENATE, No. 250

with Senate Floor Amendments
(Proposed by Senator SINGLETON)

ADOPTED: MARCH 25, 2021

These Senate amendments would revise the tiered look-back period in the bill to establish that, after the issuance of a conditional offer to a housing applicant, a housing provider would only be authorized to consider criminal a record that resulted in a conviction for murder, aggravated sexual assault, kidnapping, arson, human trafficking, any crime that resulted in lifetime registration in a state sex offender registry, or for an indictable offense of:

- the first degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within the 6 years immediately preceding the issuance of the conditional offer;
- the second or third degree that was issued, or if the conviction resulted in a prison sentence that concluded, within the four years immediately preceding the issuance of the conditional offer; or
- the fourth degree that was issued, or if the conviction resulted in a prison sentence that concluded, within one year immediately preceding the issuance of the conditional offer.

Additionally, these Senate amendments would:

- remove a provision prohibiting housing providers from ever considering criminal convictions arising for conduct committed outside of the State that, if committed within the State, would not constitute an indictable offense;
- provide that a housing provider may withdraw a conditional offer based on an applicant's criminal record only if the housing provider determines, by preponderance of the evidence, that the withdrawal is necessary to fulfill a substantial, legitimate, and nondiscriminatory interest;
- provide a housing applicant with 30 days after the housing provider's notice of a withdrawn offer, to request a copy of all information relied upon in considering the applicant, including criminal records;
- direct the Division on Civil Rights to create a model disclosure statement to notify a housing applicant whether the housing provider intends to consider criminal records;
- provide that landlords subject to the provisions of the bill would be immune from liability in civil actions arising as a result of the a decision to rent to individuals with a criminal records or who were otherwise convicted of criminal offenses,

or as a result of a landlord's decision to not engage in a criminal background screening;

- provide that a violation of the bill would constitute unlawful discrimination under section 11 of the “Law Against Discrimination,” (“LAD”) P.L.1945, c.169 (C.10:5-12), but remove a provision that would establish specific escalating penalties for a first, second and subsequent violation;
- establish tenant notification requirements that would apply when a refusal to rent to a tenant results from certain prior landlord-tenant actions that resulted in a judgment against the tenant;
- amend existing sections of the LAD to conform to the provisions of the bill;
- refine the application of the LAD on forms of discrimination based on immigration or citizenship status, credit history, gender identity or gender expression, and the source of lawful income used for rental or mortgage payments;
- remove single apartments or flats in two-family dwellings, the other unit of which is occupied by the owner, from the exceptions to the definition of “real property” as used in the LAD;
- adjust the penalty provision applicable to the LAD; and
- make technical changes to the bill.

STATEMENT TO
[Second Reprint]
SENATE, No. 250

with Assembly Floor Amendments
(Proposed by Assemblyman WIMBERLY)

ADOPTED: JUNE 3, 2021

These Assembly Amendments would accomplish the following:

- Provide that the bill would supplement Title 46 of the Revised Statutes instead of amending and supplementing the “Law Against Discrimination,” (“LAD”) P.L.1945, c.169 (C.10:5-1 et seq.);
- Limit the application of the bill to discrimination based on criminal records, and omit provisions concerning immigration or citizenship status, credit history, gender identity or gender expression, and the source of lawful income used for rental or mortgage payments;
- Add sexual assault, and causing or permitting a child to engage in a prohibited sexual act or in the simulation of such an act, to the list of crimes that, if present in a person’s record, authorize a landlord to deny housing regardless of the date of conviction or when any sentence for the crime was served;
- Provide that the bill’s provision of immunity from liability to landlords for decisions to rent to individuals with criminal records would not affect the immunity provided by existing law for decisions to rent to persons with convictions for murder, sexual assault, aggravated sexual assault, kidnapping, arson, human trafficking, causing or permitting a child to engage in a prohibited sexual act or in the simulation of such an act, or any crime that resulted in lifetime registration in a state sex offender registry;
- Replace language establishing a rebuttable presumption of unlawful retaliation if a housing provider takes an adverse action against a person within 90 days of the person’s exercise of the rights protected by the bill, with language providing that, if a housing provider engages in one or more unlawful actions with the intent of retaliating for the filing of an action authorized by the bill against the housing provider, then each unlawful retaliatory action would be enforced as a separate violation;
- Restrict Division on Civil Rights (“DCR”) from publishing information online regarding any complaint for which the housing provider is in good faith compliance with certain DCR requirements;

- Provide that not only a housing applicant, but also the Director of DCR or a prospective housing applicant, may initiate a complaint to enforce the requirements of the bill;
- Direct DCR to attempt to notify a housing provider of an alleged violation and offer an opportunity to mediate and address the complaint within 14 days of receiving the notice;
- Provide that appeals of DCR decisions would be received by the Appellate Division of the Superior Court;
- Provide that a housing provider would be authorized, under certain conditions, to evict a former applicant if that person resides in a residence owned by the housing provider when the housing provider succeeds in an appeal of a DCR decision;
- In addition, or as an alternative, to money damages, permit DCR to require a housing provider to cease and desist from continuing to violate the bill; to communicate in writing to employees and agents on their obligations under the bill; and to report to DCR on the manner of compliance for a period not to exceed two years provided that the housing provider does not commit future violations;
- If a housing provider has committed at least one other violation within the preceding five-years, authorize DCR to require the housing provider to make a good faith effort to issue a conditional offer, if the violation has resulted in a failure to issue a conditional offer, or provide the same or a similar rental dwelling unit to the applicant;
- Authorize DCR under certain circumstances to require that the applicant's rental application fee be returned, and require that a portion of the money damages owed by the housing be paid to the applicant in an amount not to exceed \$1,000; and
- Make technical changes.

ASSEMBLY, No. 1919

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Co-Sponsored by:

Assemblywomen Carter, Timberlake and Assemblyman Spearman

SYNOPSIS

“Fair Chance in Housing Act”; establishes certain housing rights of persons with criminal records.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 12/7/2020)

1 AN ACT concerning the housing rights of persons with criminal
2 records and supplementing P.L.1945, c.169 (C.10:5-1 et seq.).

3

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

6

7 1. This act shall be known and may be cited as the “Fair Chance
8 in Housing Act.”

9

10 2. As used in this act:

11 "Applicant" means any person considered for, who requests to be
12 considered for, or who requests to be considered for tenancy within
13 a rental dwelling unit.

14 “Conditional offer” means an offer to rent or lease a rental
15 dwelling unit to an applicant that is contingent on a subsequent
16 inquiry into the applicant’s criminal record, or any other eligibility
17 criteria that the housing provider may lawfully utilize.

18 “Criminal record” means information collected by criminal
19 justice agencies on individuals consisting of identifiable
20 descriptions and notations of arrests, detentions, indictments, or
21 other formal criminal charges, and any disposition arising
22 therefrom, including acquittal, sentencing, correctional supervision,
23 release or conviction, including, but not limited to, any sentence
24 arising from a verdict or plea of guilty or nolo contendere, including
25 a sentence of incarceration, a suspended sentence, a sentence of
26 probation, or a sentence of conditional discharge.

27 “Housing provider” means a landlord, an owner, lessor,
28 sublessor, assignee, or their agent, or any other person receiving or
29 entitled to receive rents or benefits for the use or occupancy of any
30 rental dwelling unit.

31 “Pending criminal accusation” means an existing accusation that
32 an individual has committed a crime, lodged by a law enforcement
33 agency through an indictment, information, complaint, or other
34 formal charge.

35 “Rental dwelling unit” means a dwelling unit offered for rent by
36 a housing provider for residential purposes, other than a dwelling
37 unit in an owner-occupied premises of not more than three dwelling
38 units.

39

40 3. a. (1) A housing provider shall not require an applicant to
41 complete any housing application that includes any inquiries
42 regarding an applicant’s criminal record prior to the provision of a
43 conditional offer.

44 (2) A housing provider shall not make any oral or written
45 inquiry regarding an applicant’s criminal record prior to making a
46 conditional offer.

- 1 (3) An applicant may provide evidence to the housing provider
2 demonstrating inaccuracies within the applicant's criminal record or
3 evidence of rehabilitation or other mitigating factors.
- 4 b. Notwithstanding the provisions of subsection a. of this
5 section, if an applicant discloses any information regarding the
6 applicant's criminal record, by voluntary oral or written disclosure,
7 prior to the conditional offer, the housing provider may make
8 inquiries regarding the applicant's criminal record prior to making
9 the conditional offer.
- 10 c. Prior to accepting any application fee, a housing provider
11 shall disclose in writing to the applicant:
- 12 (1) Whether the eligibility criteria of the housing provider
13 include the review and consideration of criminal history; and
- 14 (2) A statement that the applicant, pursuant to subsection a. of
15 this section, may provide evidence demonstrating inaccuracies
16 within the applicant's criminal record or evidence of rehabilitation
17 or other mitigating factors.
- 18 d. After the issuance of a conditional offer to an applicant, a
19 housing provider may only consider a criminal record in the
20 applicant's history that:
- 21 (1) has occurred within the 10 years immediately preceding the
22 issuance of the conditional offer; and
- 23 (2) consists of a pending criminal accusation or a criminal
24 conviction that, pursuant to subsection b. of N.J.S.2C:52-2, is not
25 eligible for expungement.
- 26 e. (1) A housing provider may withdraw a conditional offer
27 based on an applicant's criminal record only if the housing provider
28 determines, on balance, that the withdrawal achieves a substantial,
29 legitimate, nondiscriminatory interest.
- 30 (2) The housing provider's determination of a nondiscriminatory
31 interest shall be reasonable in light of the following factors:
- 32 (a) The nature and severity of the criminal offense;
- 33 (b) The age of the applicant at the time of the occurrence of the
34 criminal offense;
- 35 (c) The time which has elapsed since the occurrence of the
36 criminal offense;
- 37 (d) Any information produced by the applicant, or produced on
38 the applicant's behalf, in regard to the applicant's rehabilitation and
39 good conduct since the occurrence of the criminal offense;
- 40 (e) The degree to which the criminal offense, if it reoccurred,
41 would negatively impact the safety of the housing provider's other
42 tenants or property; and
- 43 (f) Whether the criminal offense occurred on or was connected
44 to property that was rented or leased by the applicant.
- 45 f. (1) If a housing provider withdraws a conditional offer, the
46 housing provider shall provide the applicant with written
47 notification that includes, with specificity, the reason or reasons for
48 the withdrawal of the conditional offer and a notice that advises the

1 applicant of the applicant's right to file a complaint with the
2 Attorney General pursuant to section 6 of this act.

3 (2) (a) The applicant may request, within 20 days after the
4 housing provider's notice of the withdrawal, that the housing
5 provider afford the applicant a copy of all information that the
6 housing provider relied upon in considering the applicant, including
7 criminal records.

8 (b) A housing provider shall provide the information requested
9 under subparagraph (a) of this paragraph, free of charge, within 10
10 days after receipt of a timely request.

11 g. Nothing set forth in this act shall be construed to prohibit a
12 housing provider from requiring an applicant to complete a housing
13 application that includes any inquiries regarding an applicant's
14 criminal record after the conditional offer is provided or from
15 making any oral or written inquiries regarding an applicant's
16 criminal record after the conditional offer is provided. The
17 provisions of this section shall not preclude a housing provider from
18 refusing to provide housing to an applicant based upon the
19 applicant's criminal record, unless the criminal record or relevant
20 portion thereof has been expunged or erased through executive
21 pardon, provided that such refusal is consistent with other
22 applicable laws, rules and regulations.

23
24 4. Unless otherwise permitted or required by law, a housing
25 provider shall not knowingly or purposefully publish, or cause to be
26 published, any housing advertisement that explicitly provides that
27 the housing provider will not consider any applicant who has been
28 arrested or convicted of one or more crimes or offenses.

29
30 5. This act shall not apply:

31 a. If a federal law or regulation requires the housing provider to
32 consider an applicant's criminal records for residential leasing
33 purposes; or

34 b. If a federal law or regulation otherwise allows for the denial
35 of an applicant due to certain criminal convictions.

36
37 6. a. A person claiming to be aggrieved pursuant to this act may
38 file a complaint or action with the Division on Civil Rights or in the
39 Superior Court of New Jersey alleging a violation of the "Law
40 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).

41 b. Any housing provider who violates this act shall be liable for
42 a civil penalty in an amount not to exceed \$1,000 for the first
43 violation, \$5,000 for the second violation, and \$10,000 for each
44 subsequent violation collectible by the Attorney General in a
45 summary proceeding pursuant to the "Penalty Enforcement Law of
46 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

- 1 (3) The time elapsed since the offense;
- 2 (4) Any information produced regarding rehabilitation and good
3 conduct since the occurrence of the offense;
- 4 (5) The degree to which the offense, if it reoccurred, would
5 negatively impact the safety of other tenants or property; and
- 6 (6) Whether the offense occurred on or was connected to
7 property that was rented or leased by the applicant.

8 If a housing provider withdraws a conditional offer, the bill
9 requires the housing provider to provide the applicant with written
10 notification that includes the reason for the withdrawal and a notice
11 that advises the applicant of the right to file a complaint with the
12 Attorney General.

13 The bill allows the applicant to request, within 20 days after the
14 housing provider's notice of the withdrawal, that the housing
15 provider afford the applicant a copy of all information relied on in
16 considering the applicant, including criminal records. The bill
17 requires the housing provider to provide this information free of
18 charge, within 10 days after receipt of a timely request.

19 The bill would not prohibit the housing provider from inquiring
20 into the applicant's criminal record prior to making the conditional
21 offer, if the applicant first discloses any information regarding the
22 applicant's criminal records, by voluntary oral or written disclosure.

23 The bill would not prohibit a housing provider from requiring an
24 applicant to complete a housing application that inquires into the
25 applicant's criminal records after the conditional offer is provided
26 or from making other inquiries into those records at that time. The
27 bill would not preclude a housing provider from refusing to provide
28 housing to an applicant based upon the applicant's criminal records,
29 unless the criminal records or relevant portions thereof have been
30 expunged or erased through executive pardon.

31 Unless otherwise permitted or required by law, the bill prohibits
32 a housing provider from knowingly or purposefully publishing, or
33 causing to be published, any housing advertisement that explicitly
34 provides that the housing provider will not consider any applicant
35 who has been arrested or convicted of one or more crimes or
36 offenses.

37 The bill would not apply if a federal law or regulation requires
38 the housing provider to consider an applicant's criminal records for
39 the purposes of leasing a residential dwelling unit, or if a federal
40 law regulation otherwise allows for the denial of an applicant due to
41 certain criminal convictions.

42 The bill allows a person claiming to be aggrieved to file a
43 complaint or action with the Division on Civil Rights or in the
44 Superior Court of New Jersey alleging a violation of the "Law
45 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). The
46 bill would make any housing provider in violation of its provisions
47 liable for a civil penalty in an amount not to exceed \$1,000 for the
48 first violation, \$5,000 for the second violation, and \$10,000 for each

A1919 WIMBERLY, REYNOLDS-JACKSON

7

1 subsequent violation collectible by the Attorney General in a
2 summary proceeding pursuant to the "Penalty Enforcement Law of
3 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

4 The bill would take effect on the first day of the seventh month
5 next following the date of enactment.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1919

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 7, 2020

The Assembly Housing Committee reports favorably and with committee amendments Assembly Bill No. 1919.

As amended, this bill establishes the “Fair Chance in Housing Act,” and provides certain housing rights of persons with criminal records.

This bill would restrict a housing provider from requiring a housing applicant to complete any housing application that includes any inquiries regarding the applicant’s criminal records prior to the provision of a conditional offer. The bill does not apply to dwelling units that consist of owner-occupied premises of not more than three dwelling units, and defines a “housing provider” as a landlord, owner, lessor, sublessor, assignee, or their agent, or any other person receiving or entitled to receive rents or benefits for the use or occupancy of any residential dwelling unit. The bill defines a conditional offer as an offer to rent or lease a dwelling unit to an applicant that is contingent on a subsequent inquiry into the applicant’s criminal records, or any other eligibility criteria that may be lawfully utilized.

Prior to accepting any application fee, the bill requires a housing provider to disclose, in writing, whether or not the eligibility criteria includes the review and consideration of criminal history, and supply the applicant with a statement that the applicant may provide evidence demonstrating inaccuracies within a criminal record or evidence of rehabilitation or other mitigating factors.

The bill prohibits a housing provider, either before or after the issuance of a conditional offer, from evaluating an applicant based on: (1) arrests or charges that have not resulted in a criminal conviction; (2) expunged convictions; (3) convictions erased through executive pardon; (4) vacated and otherwise legally nullified convictions; (5) juvenile adjudications of delinquency; or (6) records that have been sealed.

After the issuance of a conditional offer, the bill only would allow a housing provider to consider a criminal record in an applicant’s history that:

(1) resulted in a conviction for murder, aggravated sexual assault, kidnapping, arson, human trafficking, or any crime that resulted in lifetime registration in a state sex offender registry;

(2) is for an indictable offense of the first or second degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within the 10 years preceding the issuance of the conditional offer;

(3) is for an indictable offense of the third or fourth degree that was issued, or if the conviction resulted in a prison sentence that concluded, within the five years immediately preceding the issuance of the conditional offer; or

(4) is for a disorderly person's offense that was issued, or if the conviction resulted in a prison sentence that concluded, within one year immediately preceding the issuance of the conditional offer.

The bill allows a housing provider to withdraw a conditional offer based on an applicant's criminal record only if the housing provider determines, on balance, that the withdrawal achieves a substantial, legitimate, nondiscriminatory interest.

Additionally, the bill prohibits the withdrawal of a conditional offer unless the housing provider conducts an individualized assessment of the application in light of the following factors:

- (1) The nature and severity of the criminal offense;
- (2) The age of the applicant at the time of the criminal offense;
- (3) The time elapsed since the offense;
- (4) Any information produced in regard to the applicant's rehabilitation and good conduct since the time of the offense;
- (5) The degree to which the criminal offense, if it reoccurred, would negatively impact the safety of other tenants or property; and
- (6) Whether the offense occurred on or was connected to property leased by the applicant.

If a housing provider withdraws a conditional offer, the bill requires the housing provider to provide the applicant with written notification that includes the reason for the withdrawal.

The bill allows the applicant to request, within 20 days after the housing provider's notice of the withdrawal, that the housing provider afford the applicant a copy of all information relied on in considering the applicant, including criminal records. The bill requires the housing provider to provide this information free of charge, within 10 days after receipt of a timely request.

The bill would not prohibit the housing provider from inquiring into the applicant's criminal record prior to making the conditional offer, if the applicant first discloses any information regarding the applicant's criminal records, by voluntary oral or written disclosure.

The bill would not prohibit a housing provider from requiring an applicant to complete a housing application that inquires into the applicant's criminal records after the conditional offer is provided or from making other inquiries into those records at that time. The bill would not preclude a housing provider from rescinding a conditional offer based upon the applicant's criminal records, unless the criminal

records or relevant portions thereof have been expunged or erased through executive pardon.

The bill prohibits a housing provider from knowingly or purposefully publishing, or causing to be published, any housing advertisement that explicitly provides that the housing provider will not consider any applicant who has been arrested or convicted of one or more crimes or offenses, except for drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing, and whether the applicant is subject to a lifetime registration requirement under a State sex offender registration program.

In order to encourage residential landlords to provide housing opportunities to formerly incarcerated individuals, the bill would provide landlords subject to its provisions with immunity from liability in civil actions arising as a result of decisions to rent to individuals with criminal records, or as a result of a decision to not engage in criminal background screening. Immunity from liability, however, would not be conferred upon a landlord who, knowingly or unknowingly, rents an apartment to a person with a conviction for murder, aggravated sexual assault, kidnapping, arson, human trafficking, or any crime that resulted in lifetime registration in a state sex offender registry.

The bill would make any housing provider in violation of its provisions liable for a civil penalty in an amount not to exceed \$100 for the first violation, \$500 for the second violation, and \$1,000 for each subsequent violation collectible by the Attorney General in a summary proceeding pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).

The bill would take effect on the first day of the seventh month next following the date of enactment.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments would:

- clarify the exceptions to the bill’s prohibition on a landlord’s review of a tenant’s criminal records;
- specify the types of criminal records that a landlord may not review either before or after the issuance of a conditional offer, and what may be reviewed only after provision of the conditional offer;
- require an individualized assessment of an applicant’s conduct prior to the withdrawal of a conditional offer based on a criminal record;
- provide landlords with a degree of immunity from liability for renting to persons with criminal records;

- change the penalties for violations from \$1,000, \$5,000, and \$10,000 for a first, second and third violation to \$100, \$500, and \$1,000 respectively;
- provide the Department of Community Affairs instead of the Division on Civil Rights with administrative responsibilities under the bill; and
- make technical changes to the bill.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 1919

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 2021

The Assembly Housing Committee reports favorably Assembly Bill No. 1919 (2R), with committee amendments.

As amended, this bill establishes the “Fair Chance in Housing Act,” and provides certain housing rights of persons with criminal records.

This bill would restrict a housing provider from requiring a housing applicant to complete any housing application that includes any inquiries regarding the applicant’s criminal records prior to the provision of a conditional offer. The bill does not apply to dwelling units within owner-occupied premises of less than five dwelling units, and defines a “housing provider” as a landlord, owner, lessor, sublessor, assignee, or their agent, or any other person receiving or entitled to receive rents or benefits for the use or occupancy of any residential dwelling unit. The bill defines a conditional offer as an offer to rent or lease a dwelling unit to an applicant that is contingent on a subsequent inquiry into the applicant’s criminal records, or any other eligibility criteria that may be lawfully utilized.

Prior to accepting any application fee, the bill requires a housing provider to disclose, in writing, whether or not the eligibility criteria includes the review and consideration of criminal history, and supply the applicant with a statement that the applicant may provide evidence demonstrating inaccuracies within a criminal record or evidence of rehabilitation or other mitigating factors.

The bill prohibits a housing provider, either before or after the issuance of a conditional offer, from evaluating an applicant based on: (1) arrests or charges that have not resulted in a criminal conviction; (2) expunged convictions; (3) convictions erased through executive pardon; (4) vacated and otherwise legally nullified convictions; (5) juvenile adjudications of delinquency; or (6) records that have been sealed.

After the issuance of a conditional offer, the bill only would allow a housing provider to consider a criminal record in an applicant’s history that:

(1) resulted in a conviction for murder, aggravated sexual assault, kidnapping, arson, human trafficking, or any crime that resulted in lifetime registration in a state sex offender registry;

(2) is for an indictable offense of the first degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within the 6 years preceding the issuance of the conditional offer;

(3) is for an indictable offense of the second or third degree that was issued, or if the conviction resulted in a prison sentence that concluded, within the four years immediately preceding the issuance of the conditional offer; or

(4) is for an indictable offense of the fourth degree that was issued, or if the conviction resulted in a prison sentence that concluded, within one year immediately preceding the issuance of the conditional offer.

The bill allows a housing provider to withdraw a conditional offer based on an applicant's criminal record only if the housing provider determines, on balance, that the withdrawal achieves a substantial, legitimate, nondiscriminatory interest.

Additionally, the bill prohibits the withdrawal of a conditional offer unless the housing provider conducts an individualized assessment of the application in light of the following factors:

(1) The nature and severity of the criminal offense;

(2) The age of the applicant at the time of the criminal offense;

(3) The time elapsed since the offense;

(4) Any information produced in regard to the applicant's rehabilitation and good conduct since the time of the offense;

(5) The degree to which the criminal offense, if it reoccurred, would negatively impact the safety of other tenants or property; and

(6) Whether the offense occurred on or was connected to property leased by the applicant.

If a housing provider withdraws a conditional offer, the bill requires the housing provider to provide the applicant with written notification that includes the reason for the withdrawal.

The bill allows the applicant to request, within 30 days after the housing provider's notice of the withdrawal, that the housing provider afford the applicant a copy of all information relied on in considering the applicant, including criminal records. The bill requires the housing provider to provide this information free of charge, within 10 days after receipt of a timely request.

The bill would not prohibit the housing provider from inquiring into the applicant's criminal record prior to making the conditional offer, if the applicant first discloses any information regarding the applicant's criminal records, by voluntary oral or written disclosure.

The bill would not prohibit a housing provider from requiring an applicant to complete a housing application that inquires into the applicant's criminal records after the conditional offer is provided or

from making other inquiries into those records at that time. The bill would not preclude a housing provider from rescinding a conditional offer based upon the applicant's criminal records, unless the criminal records or relevant portions thereof have been expunged or erased through executive pardon.

The bill prohibits a housing provider from knowingly or purposefully publishing, or causing to be published, any housing advertisement that explicitly provides that the housing provider will not consider any applicant who has been arrested or convicted of one or more crimes or offenses, except for drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing, and whether the applicant is subject to a lifetime registration requirement under a State sex offender registration program.

In order to encourage residential landlords to provide housing opportunities to formerly incarcerated individuals, the bill would provide landlords subject to its provisions with immunity from liability in civil actions arising as a result of decisions to rent to individuals with criminal records, or as a result of a decision to not engage in criminal background screening. Immunity from liability, however, would not be conferred upon a landlord who, knowingly or unknowingly, rents an apartment to a person with a conviction for murder, aggravated sexual assault, kidnapping, arson, human trafficking, or any crime that resulted in lifetime registration in a state sex offender registry.

The bill allows a person claiming to be aggrieved to file a complaint or action with the Division on Civil Rights, who would issue a monetary penalty if the complaint is substantiated. The bill allows a housing provider or applicant to appeal a determination in court. The Division on Civil Rights would maintain data on the number of complaints filed, demographic information on the complaints, the identity of the associated housing providers, the number of investigations conducted, and the disposition of the complaints and investigations. The division would annually publish information online on complaints that have resulted in monetary penalties.

The bill would also direct the Division on Civil Rights to create a model disclosure statement to be used by a housing provider to notify a housing applicant whether the housing provider intends to consider criminal records.

The bill would take effect on the first day of the seventh month next following the date of enactment.

COMMITTEE AMENDMENTS:

The committee amended the bill to revise the tiered look-back period in the bill to establish that, after the issuance of a conditional offer to a housing applicant, a housing provider would only be

authorized to consider criminal a record that resulted in a conviction for murder, aggravated sexual assault, kidnapping, arson, human trafficking, any crime that resulted in lifetime registration in a state sex offender registry, or for an indictable offense of:

- the first degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within the 6 years immediately preceding the issuance of the conditional offer;
- the second or third degree that was issued, or if the conviction resulted in a prison sentence that concluded, within the four years immediately preceding the issuance of the conditional offer; or
- the fourth degree that was issued, or if the conviction resulted in a prison sentence that concluded, within one year immediately preceding the issuance of the conditional offer.

Additionally, these committee amendments would:

- shift enforcement responsibility under the bill from the Department of Community Affairs to the Division on Civil Rights in the Department of Law and Public Safety;
- adjust the “rental dwelling unit” definition so that the bill would not apply to units within owner-occupied premises of less than five dwelling units;
- remove a provision prohibiting housing providers from ever considering criminal convictions arising for conduct committed outside of the State that, if committed within the State, would not constitute an indictable offense;
- provide that a housing provider may withdraw a conditional offer based on an applicant's criminal record only if the housing provider determines, by preponderance of the evidence, that the withdrawal is necessary to fulfill a substantial, legitimate, and nondiscriminatory interest;
- provide a housing applicant with 30 days after the housing provider's notice of a withdrawn offer, to request a copy of all information relied upon in considering the applicant, including criminal records;
- direct the Division on Civil Rights to create a model disclosure statement to notify a housing applicant whether the housing provider intends to consider criminal records;
- expressly prohibit a housing provider from expressing, directly, or indirectly, any unlawful limitation, specification or discrimination as to criminal record examination as a condition for the provision of housing;
- expressly prohibit a housing provider from disseminating an applicant's criminal record to any person who is not expected to use the criminal record for the purpose of evaluating the applicant;

- prohibit a housing provider from requiring an applicant to submit to a drug or alcohol test, or request the applicant's consent to obtain information from a drug abuse treatment facility;
- Establish a rebuttable presumption of unlawful retaliation if a housing provider or other person takes an adverse action against a person within 90 days of the person's exercise of the rights protected by the bill;
- provide that landlords subject to the provisions of the bill would be immune from liability in civil actions arising as a result of a decision to rent to individuals with a criminal records or who were otherwise convicted of criminal offenses, or as a result of a landlord's decision to not engage in a criminal background screening;
- direct the division to maintain complaint data, and annually publish information online on complaints that result in monetary penalties;
- authorize an applicant to file a complaint with the Division on Civil Rights to allege a violation of the bill, and authorize the Division on Civil Rights to issue a monetary penalty against a housing provider if the complaint is substantiated;
- Establish authority for a housing provider or applicant to appeal certain Division on Civil Rights determinations in court;
- establish \$1,000 and \$5,000 penalties for a first and second violation, if committed within the same five-year period, and a \$10,000 penalty for any subsequent violations during the same seven-year period; and
- make technical changes to the bill.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1919

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 15, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1919 (1R), with committee amendments.

As amended, this bill establishes the “Fair Chance in Housing Act,” and provides certain housing rights of persons with criminal records.

This bill would restrict a housing provider from requiring a housing applicant to complete any housing application that includes any inquiries regarding the applicant’s criminal records prior to the provision of a conditional offer. The bill does not apply to dwelling units that consist of owner-occupied premises of not more than three dwelling units, and defines a “housing provider” as a landlord, owner, lessor, sublessor, assignee, or their agent, or any other person receiving or entitled to receive rents or benefits for the use or occupancy of any residential dwelling unit. The bill defines a conditional offer as an offer to rent or lease a dwelling unit to an applicant that is contingent on a subsequent inquiry into the applicant’s criminal records, or any other eligibility criteria that may be lawfully utilized.

Prior to accepting any application fee, the bill requires a housing provider to disclose, in writing, whether or not the eligibility criteria includes the review and consideration of criminal history, and supply the applicant with a statement that the applicant may provide evidence demonstrating inaccuracies within a criminal record or evidence of rehabilitation or other mitigating factors.

The bill prohibits a housing provider, either before or after the issuance of a conditional offer, from evaluating an applicant based on: (1) arrests or charges that have not resulted in a criminal conviction; (2) expunged convictions; (3) convictions erased through executive pardon; (4) vacated and otherwise legally nullified convictions; (5) juvenile adjudications of delinquency; (6) records that have been sealed; or (7) records from a different state concerning actions that, if committed in New Jersey, would be decriminalized or legalized in accordance with A1897/4269 (ACS) / S2535 of 2020 or A21 / S21 of 2020.

After the issuance of a conditional offer, the bill only would allow a housing provider to consider a criminal record in an applicant's history that:

(1) resulted in a conviction for murder, aggravated sexual assault, kidnapping, arson, human trafficking, or any crime that resulted in lifetime registration in a state sex offender registry;

(2) is for an indictable offense of the first or second degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within the 10 years preceding the issuance of the conditional offer;

(3) is for an indictable offense of the third or fourth degree that was issued, or if the conviction resulted in a prison sentence that concluded, within the five years immediately preceding the issuance of the conditional offer; or

(4) is for a disorderly person's offense that was issued, or if the conviction resulted in a prison sentence that concluded, within one year immediately preceding the issuance of the conditional offer.

The bill allows a housing provider to withdraw a conditional offer based on an applicant's criminal record only if the housing provider determines, on balance, that the withdrawal achieves a substantial, legitimate, nondiscriminatory interest.

Additionally, the bill prohibits the withdrawal of a conditional offer unless the housing provider conducts an individualized assessment of the application in light of the following factors:

(1) The nature and severity of the criminal offense;

(2) The age of the applicant at the time of the criminal offense;

(3) The time elapsed since the offense;

(4) Any information produced in regard to the applicant's rehabilitation and good conduct since the time of the offense;

(5) The degree to which the criminal offense, if it reoccurred, would negatively impact the safety of other tenants or property; and

(6) Whether the offense occurred on or was connected to property leased by the applicant.

If a housing provider withdraws a conditional offer, the bill requires the housing provider to provide the applicant with written notification that includes the reason for the withdrawal.

The bill allows the applicant to request, within 20 days after the housing provider's notice of the withdrawal, that the housing provider afford the applicant a copy of all information relied on in considering the applicant, including criminal records. The bill requires the housing provider to provide this information free of charge, within 10 days after receipt of a timely request.

The bill would not prohibit the housing provider from inquiring into the applicant's criminal record prior to making the conditional offer, if the applicant first discloses any information regarding the applicant's criminal records, by voluntary oral or written disclosure.

The bill would not prohibit a housing provider from requiring an applicant to complete a housing application that inquires into the applicant's criminal records after the conditional offer is provided or from making other inquiries into those records at that time. The bill would not preclude a housing provider from rescinding a conditional offer based upon the applicant's criminal records, unless the criminal records or relevant portions thereof have been expunged or erased through executive pardon.

The bill prohibits a housing provider from knowingly or purposefully publishing, or causing to be published, any housing advertisement that explicitly provides that the housing provider will not consider any applicant who has been arrested or convicted of one or more crimes or offenses, except for drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing, and whether the applicant is subject to a lifetime registration requirement under a State sex offender registration program.

In order to encourage residential landlords to provide housing opportunities to formerly incarcerated individuals, the bill would provide landlords subject to its provisions with immunity from liability in civil actions arising as a result of decisions to rent to individuals with criminal records, or as a result of a decision to not engage in criminal background screening. Immunity from liability, however, would not be conferred upon a landlord who, knowingly or unknowingly, rents an apartment to a person with a conviction for murder, aggravated sexual assault, kidnapping, arson, human trafficking, or any crime that resulted in lifetime registration in a state sex offender registry.

A person claiming to be aggrieved pursuant to the bill would be permitted to file a complaint with the Department of Community Affairs ("DCA"). DCA would have authority to investigate the complaint, and issue a civil penalty as appropriate. The bill would make any housing provider in violation of its provisions liable for a civil penalty in an amount not to exceed \$100 for the first violation, \$500 for the second violation, and \$1,000 for each subsequent violation collectible by the department. The bill directs DCA to share enforcement statistics with the Division on Civil Rights. The division would maintain data on the number of complaints filed, demographic information on the complaints, the identity of the associated housing providers, the number of investigations conducted, and the disposition of the complaints and investigations. The division would annually publish and post this information online.

The bill would take effect on the first day of the seventh month next following the date of enactment.

COMMITTEE AMENDMENTS:

The committee amendments would:

- Prohibit a housing provider, either before or after the issuance of a conditional offer, from evaluating an applicant based on records from a different state concerning actions that, if committed in New Jersey, would be decriminalized or legalized in accordance with A1897/4269 (ACS) / S2535 of 2020 or A21 / S21 of 2020.
- Clarify that conducting an individualized assessment would be necessary prior to the withdrawal of a conditional offer;
- Remove an express prohibition on distribution of an applicant's criminal record to any person who is not expected to use the criminal record for the purpose of evaluating the applicant;
- Provide that a person claiming to be aggrieved under the bill would be permitted to file a complaint with DCA; and

Direct DCA to share enforcement statistics with the Division on Civil Rights, which would maintain data on the number of complaints filed, demographic information on the complaints, the identity of the associated housing providers, the number of investigations conducted, and the disposition of the complaints and investigations; and annual publish this information online

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

STATEMENT TO
[Third Reprint]
ASSEMBLY, No. 1919

with Assembly Floor Amendments
(Proposed by Assemblyman WIMBERLY)

ADOPTED: MAY 20, 2021

These Assembly floor amendments would accomplish the following:

- Add sexual assault, and causing or permitting a child to engage in a prohibited sexual act or in the simulation of such an act, to the list of crimes that, if present in a person's record, authorize a landlord to deny housing regardless of the date of conviction or when any sentence for the crime was served;
- Provide that the bill's provision of immunity from liability to landlords for decisions to rent to individuals with criminal records would not affect the immunity provided by existing law for decisions to rent to persons with convictions for murder, sexual assault, aggravated sexual assault, kidnapping, arson, human trafficking, causing or permitting a child to engage in a prohibited sexual act or in the simulation of such an act, or any crime that resulted in lifetime registration in a state sex offender registry;
- Replace language establishing a rebuttable presumption of unlawful retaliation if a housing provider takes an adverse action against a person within 90 days of the person's exercise of the rights protected by the bill, with language providing that, if a housing provider engages in one or more unlawful actions with the intent of retaliating for the filing of an action authorized by the bill against the housing provider, then each unlawful retaliatory action would be enforced as a separate violation;
- Restrict DCR from publishing information online regarding any complaint for which the housing provider is in good faith compliance with certain DCR requirements;
- Provide that not only a housing applicant, but also the Director of DCR or a prospective housing applicant, may initiate a complaint to enforce the requirements of the bill;
- Direct DCR to attempt to notify a housing provider of an alleged violation and offer an opportunity to mediate and address the complaint within 14 days of receiving the notice;
- Provide that appeals of DCR decisions would be received by the Appellate Division of the Superior Court;
- Provide that a housing provider would be authorized, under certain conditions, to evict a former applicant if that person resides in a residence owned by the housing provider when the housing provider succeeds in an appeal of a DCR decision;

- In addition, or as an alternative, to money damages, permit DCR to require a housing provider to cease and desist from continuing to violate the bill; to communicate in writing to employees and agents on their obligations under the bill; and to report to DCR on the manner of compliance for a period not to exceed two years provided that the housing provider does not commit future violations;
- If a housing provider has committed at least one other violation within the preceding five-years, authorize DCR to require the housing provider to make a good faith effort to issue a conditional offer, if the violation has resulted in a failure to issue a conditional offer, or provide the same or a similar rental dwelling unit to the applicant;
- Authorize DCR under certain circumstances to require that the applicant's rental application fee be returned, and require that a portion of the money damages owed by the housing be paid to the applicant in an amount not to exceed \$1,000; and
- Make technical changes.

Governor Murphy Commemorates Juneteenth By Signing the "Fair Chance in Housing Act"

06/18/2021

Legislation will make it illegal for landlords to ask about criminal history on rental applications

TRENTON – During New Jersey’s first commemoration of Juneteenth as an official state and federal holiday, Governor Murphy today signed legislation (S250/A1919) barring landlords from asking about criminal history on housing applications in most instances. By signing the legislation – known as the “Fair Chance in Housing Act” – Governor Murphy is furthering his commitment to taking action to dismantle systemic racial disparities that have been allowed to exist for too long in New Jersey.

“As we commemorate Juneteenth, we must commit to both remembering the past and continuing to take action to ensure communities of color, especially Black Americans, achieve the full equity they deserve,” **said Governor Murphy**. “Today, I am proud to sign the Fair Chance in Housing Act into law and work to level what has been for too long an uneven playing field when it comes to access to housing. I thank the sponsors and advocates for their tireless commitment to making this bill a reality and ensuring that New Jersey is a fairer place to live.”

“Finding housing after being court-involved can be a daunting and often prohibitive process when it comes to securing a safe, decent and affordable place to live,” **said Lt. Governor Sheila Oliver, who serves as Commissioner of the Department of Community Affairs**. “Fair access to housing is a fundamental right for all citizens. This bill will help to ensure that those who have been court-involved are permitted to move on with their lives and become law-abiding and productive members of society.”

Housing instability is a known driver of recidivism. The legislation aims to eliminate this barrier for those with criminal records and break an ongoing cycle exacerbated by previously existing policy. The Fair Chance at Housing Act will not apply in instances where federal law allows landlords to ask about certain criminal convictions.

The legislation was sponsored by Senator Troy Singleton, Assemblyman Benjie Wimberly, Assemblywoman Reynolds-Jackson, and Assemblywoman Angela McKnight.

“There is a staggering amount of data that shows difficulty in securing housing is a key obstacle to reducing recidivism,” **said Senator Troy Singleton**. “The Fair Chance in Housing Act will allow those who have paid their debt to society to move forward with their lives in a productive manner. Shelter is a basic human right and our public policy decisions must recognize that. This new law helps to create a reparative culture that recognizes human worth, fairness under the law, and restorative justice.”

“Many times, it is before an applicant even has a chance to explain themselves or discuss the application that they have already been denied housing,” **said Assemblyman Benjie Wimberly**. “Under this law, landlords are implored to take an honest look at the application process and not paint every individual with a conviction with the same broad stroke. We’re fighting generational poverty, homelessness, and hopelessness through social justice reform measures such as this one.”

“Many individuals with criminal records struggle to find housing after prison and, as a result, end up homeless. A fair second chance after incarceration depends on a person’s ability to find a job and a place to call home,” **said Assemblywoman Verlina Reynolds-Jackson**. “It is the stability they need to help them rebuild their lives.”

"As hard as some may try, many never seem to overcome the stigma of a criminal record. It affects finding employment, securing housing among many other essential needs key to getting their lives on the right track," **said Assemblywoman Angela McKnight**. "This law aims to provide a fair chance for residents in these situations."

"Paterson's historic Calvary Baptist Church is hallowed ground. It is exactly the right place for us to mark Juneteenth with the signing of Governor Murphy's groundbreaking fair housing bill," **said U.S. Rep. Bill Pascrell, Jr.**, a staunch supporter of fair housing in the Congress. "A nation can only achieve greatness if it looks at its past with unswerving honesty. America's failure to provide equal housing opportunities to every American is a stain on our nation that we must confront head-on. Today New Jersey leads with needed reform, and I commend Governor Murphy for his steadfast commitment to equal housing opportunities for all."

"Today is a historic day for civil rights and criminal justice reform in New Jersey. The Fair Chance in Housing Act will significantly impact Black and brown communities who have been devastated by our broken criminal justice and housing systems for generations," **said Richard T. Smith, NAACP New Jersey State Conference President**. "We appreciate the significant bipartisan support for this landmark legislation, and recognize the broad and diverse coalition of civil rights leaders, rabbis, pastors, imams, congregational leaders and more who have spoken up for this critical moral issue. We thank Governor Murphy for his strong support, and for signing this essential step towards equity into law."

"The Fair Chance in Housing Act reflects our Jewish value of *t'shuvah* – returning to the right path – by ensuring that potential tenants are not denied housing as they work to rebuild their lives," **said Sarah Blaine, Lead Organizer of the New Jersey Religious Action Center of Reform Judaism (RAC-NJ)**. "RAC-NJ is proud that hundreds of our leaders from more than 30 of our congregations from all parts of the state organized together – and in partnership with Fair Share Housing Center's coalition – to get this bill to the Governor's desk in time for Juneteenth. The Fair Chance in Housing Act is one step towards meaningfully addressing New Jersey's shameful racial disparities in incarceration rates by increasing returning citizens' access to safe and secure housing."

"With today's action, Governor Murphy has put New Jersey at the forefront of criminal justice reform by helping to dismantle the impacts of a criminal justice system plagued by systemic racism," **said Fair Share Housing Deputy Director Eric Dobson**. "Every person in our state deserves a home. The Fair Chance in Housing Act sits at the intersection of housing, civil rights and criminal justice reform and will make it easier for returning citizens to rebuild their lives by removing discriminatory barriers to housing that drive up recidivism. We would like to thank Governor Murphy, the bill sponsors and legislative leaders for championing this important reform."

"Today's bill signing is the culmination of years of work. It was born of the notion that everyone deserves a second chance and that redemption is possible," **said Frank Argote-Freyre, Chair Latino Action Network Housing Committee**. "Mistakes need not reverberate over time when it comes to finding safe and secure housing. Housing is an important element on the road back to a meaningful and successful life. This legislation makes it harder to discriminate against those who want a second chance."

"Eliminating barriers to housing for those with criminal records is a critical step toward righting the wrongs that have unfairly impacted Black and brown communities for far too long," **said Marc Morial, President and CEO of the National Urban League**. "Housing discrimination has long-lasting impacts on individuals and communities, and today's action will help break the cycle. I thank Governor Murphy for signing this historic legislation."

This Week in NJ: June 18th, 2021

06/18/2021



Governor Murphy Marks Milestone Achievement of Fully Vaccinating 4.7 Million Individuals Who Live, Work, or Study in New Jersey Ahead of June 30th Goal

Returning to University Hospital, the location of New Jersey's first COVID-19 vaccination on December 15, 2020, Governor Phil Murphy announced that the state has hit its ambitious goal of fully vaccinating 4.7 million individuals who live, work, or study in New Jersey nearly two weeks before its original target date of June 30th.

"Before the arrival of vaccines in mid-December, our Administration set one of the most aggressive vaccination goals in the country," **said Governor Murphy**. "Reaching our milestone of 4.7 million fully vaccinated individuals who live, work, or study in New Jersey in a little more than six months required a comprehensive statewide approach, with strong partnerships across all levels of government, the private sector, and in our communities. Our Administration built a large-scale vaccination infrastructure, with more than 1,500 vaccine distribution sites to date, to meet demand and provide equitable access to all eligible individuals. We are grateful to the millions who rolled up their sleeves to protect themselves, their families, and their communities from COVID-19, and together, we have exceeded our initial goal. While we are celebrating this remarkable achievement, our work is not yet finished, and we must continue working together to vaccinate all eligible individuals to end the COVID-19 pandemic."

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On Juneteenth, Governor Murphy Announces Leadership of Wealth Disparity Task Force

Governor Phil Murphy announced that Lieutenant Governor Sheila Oliver, Department of Banking and Insurance Commissioner Marlene Caride, Rutgers University President Dr. Jonathan Holloway, and Council of New Jersey Grantmakers President and CEO Maria Vizcarrondo will lead the Governor's Wealth Disparity Task Force. They will be joined by additional government officials, academic researchers, and faith and community leaders to be announced at a later date.

“In my State of the State Address in 2020, a month before the pandemic swept over our state, I announced my intention to form a task force focused specifically on the issue of our state’s gaping racial wealth disparity,” **said Governor Murphy.** “Lieutenant Governor Oliver, Commissioner Caride, Dr. Holloway, and Maria Vizcarrondo are the right choices to lead the Wealth Disparity Task Force. As esteemed and experienced leaders in government and education, they are well qualified to tackle this issue and advocate for the inclusion of all in prosperous future of our state.”



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Governor Murphy, Senate President Sweeney, and Assembly Speaker Coughlin Announce Naming of New Department of Health Building for Commissioner Judy Persichilli

Governor Phil Murphy, Senate President Steve Sweeney, and Assembly Speaker Craig Coughlin announced that the new Department of Health building in Downtown Trenton will be named



after Health Commissioner Judy Persichilli, in honor of her past and ongoing service to the people of New Jersey during the COVID-19 pandemic.

“Each and every day throughout the pandemic, Judy has remained singularly engaged to save lives and protect public health,” **said Governor Murphy**. “She has been the right leader for these times, and I could not be prouder to have asked Judy to serve as Commissioner two years ago. Now all those who pass through the halls of the ‘Judith M. Persichilli Building’ will be reminded of Judy’s selfless, honorable, and dedicated service to our state and its residents during the greatest public health crisis in New Jersey’s history.”

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Governor Murphy Signs Legislation Offering an Additional Year of Special Education to Students with Disabilities

Building on his commitment to ensuring a high-quality education for all New Jersey students, Governor Phil Murphy signed legislation (S3434/A5366) to offer an additional year of public education and related services to students with

disabilities. This bill will provide a temporary one-year extension of special education and related services to students with disabilities who exceed, or will exceed, the current age of eligibility for special education and related services in the 2020-2021, 2021-2022, or 2022-2023 school year following a determination by the student’s Individualized Education Program (IEP) team that such education and/or services are necessary.

“The pandemic has been especially hard on students with disabilities who rely on school programs to ensure they have the skills and services they need to be successful following graduation,” **said Governor Murphy**. “By providing an additional year for students who will otherwise age out allows to us acknowledge the unique impact of the pandemic on these students and help secure a better future for them and their families.”

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