

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

(Clubs--Discrimination)

NJSA: 10:5-12

LAWS OF: 1997 CHAPTER: 179

BILL NO: A432

SPONSOR(S): Kelly and others

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Judiciary

SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
Third reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: February 27, 1997

SENATE: June 5, 1997

DATE OF APPROVAL: August 1, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement, adopted
10-21-96

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

See newspaper clipping -- attached:
"Broader equality law...", 8-2-97, Star Ledger.

ABP:pp

New Jersey State Law Library

LEGISLATIVE HISTORY CHECKLIST

(Compiled by the Office of Legislative Services Library)

Synopsis: Prohibits clubs from discriminating against members in certain cases.

Bill Number: A432 AcaAaSca (3R)

P.L. 1997 c. 179

Identical to: S1656 (1R)

Substituted for: S1656 (1R)

Combined with:

Last Session Bill Number: A2092

See Above Bill(s) for Additional History

NJSA: 10:5-12 et al

Sponsor(s): Kelly, John V. / Wright, Barbara + 18

Date Introduced: 1/11/1996

Committee Reference:

Statement: Public Hearing:

Assembly:

Judiciary

Yes

No

Senate:

Judiciary

Yes

No

Sponsor Statement: Yes

Fiscal Note: No

Dates Of Passage:

Assembly:

6/19/1997 (67-7-4)

Senate:

6/5/1997 (38-0)

Amended During Passage: Yes

Governor's Action:

Veto: No

Date of Veto:

Date of Approval: 8/1/97

Message on Signing: Yes

Additional Information:

P.L. 1997, CHAPTER 179, *approved August 1, 1997*
Assembly, No. 432 (*Third Reprint*)

1 AN ACT concerning discrimination and amending P.L.1945, c.169.

2

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

5

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

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

10 a. For an employer, because of the race, creed, color, national
11 origin, ancestry, age, marital status, affectional or sexual orientation,
12 ³genetic information,³ sex or atypical hereditary cellular or blood trait
13 of any individual, or because of the liability for service in the Armed
14 Forces of the United States or the nationality of any individual, ³or
15 because of the refusal to submit to a genetic test or make available the
16 results of a genetic test to an employer,³ to refuse to hire or employ
17 or to bar or to discharge or require to retire, unless justified by lawful
18 considerations other than age, from employment such individual or to
19 discriminate against such individual in compensation or in terms,
20 conditions or privileges of employment; provided, however, it shall not
21 be an unlawful employment practice to refuse to accept for
22 employment an applicant who has received a notice of induction or
23 orders to report for active duty in the armed forces; provided further
24 that nothing herein contained shall be construed to bar an employer
25 from refusing to accept for employment any person on the basis of sex

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJU committee amendments adopted September 19, 1996.

² Assembly floor amendments adopted October 21, 1996.

³ Senate SJU committee amendments adopted May 8, 1997.

1 in those certain circumstances where sex is a bona fide occupational
2 qualification, reasonably necessary to the normal operation of the
3 particular business or enterprise; provided further that nothing herein
4 contained shall be construed to bar an employer from refusing to
5 accept for employment or to promote any person over 70 years of age;
6 provided further that it shall not be an unlawful employment practice
7 for a club exclusively social or fraternal to use club membership as a
8 uniform qualification for employment, or for a religious association or
9 organization to utilize religious affiliation as a uniform qualification in
10 the employment of clergy, religious teachers or other employees
11 engaged in the religious activities of the association or organization,
12 or in following the tenets of its religion in establishing and utilizing
13 criteria for employment of an employee; provided further, that it shall
14 not be an unlawful employment practice to require the retirement of
15 any employee who, for the two-year period immediately before
16 retirement, is employed in a bona fide executive or a high
17 policy-making position, if that employee is entitled to an immediate
18 non-forfeitable annual retirement benefit from a pension, profit
19 sharing, savings or deferred retirement plan, or any combination of
20 those plans, of the employer of that employee which equals in the
21 aggregate at least \$27,000.00; and provided further that an employer
22 may restrict employment to citizens of the United States where such
23 restriction is required by federal law or is otherwise necessary to
24 protect the national interest.

25 For the purposes of this subsection, a "bona fide executive" is a top
26 level employee who exercises substantial executive authority over a
27 significant number of employees and a large volume of business. A
28 "high policy-making position" is a position in which a person plays a
29 significant role in developing policy and in recommending the
30 implementation thereof.

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

45 c. For any employer or employment agency to print or circulate or
46 cause to be printed or circulated any statement, advertisement or

1 publication, or to use any form of application for employment, or to
2 make an inquiry in connection with prospective employment, which
3 expresses, directly or indirectly, any limitation, specification or
4 discrimination as to race, creed, color, national origin, ancestry, age,
5 marital status, affectional or sexual orientation or sex or liability of any
6 applicant for employment for service in the Armed Forces of the
7 United States, or any intent to make any such limitation, specification
8 or discrimination, unless based upon a bona fide occupational
9 qualification.

10 d. For any person to take reprisals against any person because that
11 person has opposed any practices or acts forbidden under this act or
12 because that person has filed a complaint, testified or assisted in any
13 proceeding under this act or to coerce, intimidate, threaten or interfere
14 with any person in the exercise or enjoyment of, or on account of that
15 person having aided or encouraged any other person in the exercise or
16 enjoyment of, any right granted or protected by this act.

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

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

1 any individual of the opposite sex any of the accommodations,
2 advantages, facilities or privileges thereof on the basis of sex; provided
3 further, that the foregoing limitation shall not apply to any restaurant
4 as defined in R.S.33:1-1 or place where alcoholic beverages are
5 served.

6 (2) ¹~~[For]~~ Notwithstanding the definition of "public
7 ²[accommodation] accommodation² " as set forth in subsection l. of
8 section ³[4] ⁵ of P.L.1945, c.169 (C.10:5-5), for¹ any owner, lessee,
9 proprietor, manager, superintendent, agent, or employee of any private
10 club or association to directly or indirectly refuse, withhold from or
11 deny to any individual who has been accepted as a club member and
12 has contracted for or is otherwise entitled to full club membership any
13 of the accommodations, advantages, facilities or privileges thereof, or
14 to discriminate against any ¹[person] member¹ in the furnishing thereof
15 on account of the race, creed, color, national origin, ancestry, marital
16 status, sex, affectional or sexual orientation or nationality of such
17 person.

18 ²In addition to the penalties otherwise provided for a violation of
19 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of
20 subsection f. of this section is the holder of an alcoholic beverage
21 license issued under the provisions of R.S.33:1-12 ³[that license, for
22 a first offense, shall be suspended by] for that private club or
23 association, the matter shall be referred to³ the Director of the
24 Division of Alcoholic ³[Beverages for a period of not less than 15
25 days or more than 60 days and, for a second offense, shall be revoked
26 by the director and the licensed premises ineligible for any license
27 issued under the provisions of chapter 1 of Title 33 of the Revised
28 Statutes for a period of no less than two years following the date of
29 the revocation. A suspension or revocation authorized under this
30 paragraph shall be effectuated] Beverage Control who shall impose an
31 appropriate penalty³ in accordance with the procedures set forth in
32 R.S.33:1-31.²

33 g. For the owner, lessee, sublessee, assignee or managing agent of,
34 or other person having the right of ownership or possession of or the
35 right to sell, rent, lease, assign, or sublease any real property or part
36 or portion thereof, or any agent or employee of any of these:

37 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
38 to deny to or withhold from any person or group of persons any real
39 property or part or portion thereof because of the race, creed, color,
40 national origin, ancestry, marital status, affectional or sexual
41 orientation, familial status or nationality of such person or group of
42 persons;

43 (2) To discriminate against any person or group of persons
44 because of the race, creed, color, national origin, marital status, sex,
45 affectional or sexual orientation or familial status of such person or
46 group of persons in the terms, conditions or privileges of the sale,

1 rental or lease of any real property or part or portion thereof or in the
2 furnishing of facilities or services in connection therewith; or

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

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

27 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
28 sale, rental, lease, assignment, or sublease any real property or part or
29 portion thereof to any person or group of persons or to refuse to
30 negotiate for the sale, rental, lease, assignment, or sublease of any real
31 property or part or portion thereof to any person or group of persons
32 because of the race, creed, color, national origin, ancestry, marital
33 status, familial status, sex, affectional or sexual orientation or
34 nationality of such person or group of persons, or to represent that any
35 real property or portion thereof is not available for inspection, sale,
36 rental, lease, assignment, or sublease when in fact it is so available, or
37 otherwise to deny or withhold any real property or any part or portion
38 of facilities thereof to or from any person or group of persons because
39 of the race, creed, color, national origin, ancestry, marital status,
40 familial status, sex, affectional or sexual orientation or nationality of
41 such person or group of persons;

42 (2) To discriminate against any person because of his race, creed,
43 color, national origin, ancestry, marital status, familial status, sex or
44 affectional or sexual orientation in the terms, conditions or privileges
45 of the sale, rental, lease, assignment or sublease of any real property
46 or part or portion thereof or in the furnishing of facilities or services

1 in connection therewith; or

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

24 i. For any person, bank, banking organization, mortgage company,
25 insurance company or other financial institution, lender or credit
26 institution to whom application is made for any loan or extension of
27 credit including but not limited to an application for financial
28 assistance for the purchase, acquisition, construction, rehabilitation,
29 repair or maintenance of any real property or part or portion thereof
30 or any agent or employee thereof:

31 (1) To discriminate against any person or group of persons because
32 of the race, creed, color, national origin, ancestry, marital status, sex,
33 affectional or sexual orientation or nationality of such person or group
34 of persons or of the prospective occupants or tenants of such real
35 property or part or portion thereof, in the granting, withholding,
36 extending, modifying or renewing, or in the fixing of the rates, terms,
37 conditions or provisions of any such loan, extension of credit or
38 financial assistance or in the extension of services in connection
39 therewith; or

40 (2) To use any form of application for such loan, extension of
41 credit or financial assistance or to make record or inquiry in
42 connection with applications for any such loan, extension of credit or
43 financial assistance which expresses, directly or indirectly, any
44 limitation, specification or discrimination as to race, creed, color,
45 national origin, ancestry, marital status, sex, affectional or sexual
46 orientation or nationality or any intent to make any such limitation,

1 specification or discrimination; unless otherwise required by law or
2 regulation to retain or use such information; or

3 (3) To discriminate on the basis of familial status in any manner
4 described in paragraph (1) or (2) of this subsection with respect to any
5 real property.

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

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

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

38 m. For any person to:

39 (1) Grant or accept any letter of credit or other document which
40 evidences the transfer of funds or credit, or enter into any contract for
41 the exchange of goods or services, where the letter of credit, contract,
42 or other document contains any provisions requiring any person to
43 discriminate against or to certify that he, she or it has not dealt with
44 any other person on the basis of the race, creed, color, national origin,
45 ancestry, age, sex, affectional or sexual orientation, marital status,
46 liability for service in the Armed Forces of the United States, or

1 nationality of such other person or of such other person's spouse,
2 partners, members, stockholders, directors, officers, managers,
3 superintendents, agents, employees, business associates, suppliers, or
4 customers.

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

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

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

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

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

34 (cf: P.L.1996, c.126, s.5)

35

36 2. This act shall take effect immediately.

37

38

39

40

41 Prohibits clubs from discriminating against members in certain cases.

ASSEMBLY, No. 432

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KELLY and Assemblywoman WRIGHT

1 AN ACT concerning discrimination and amending P.L.1945, c.169.

2

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

5

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

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

10 a. For an employer, because of the race, creed, color, national
11 origin, ancestry, age, marital status, affectional or sexual orientation,
12 sex or atypical hereditary cellular or blood trait of any individual, or
13 because of the liability for service in the Armed Forces of the United
14 States or the nationality of any individual, to refuse to hire or employ
15 or to bar or to discharge or require to retire, unless justified by lawful
16 considerations other than age, from employment such individual or to
17 discriminate against such individual in compensation or in terms,
18 conditions or privileges of employment; provided, however, it shall not
19 be an unlawful employment practice to refuse to accept for
20 employment an applicant who has received a notice of induction or
21 orders to report for active duty in the armed forces; provided further
22 that nothing herein contained shall be construed to bar an employer
23 from refusing to accept for employment any person on the basis of sex
24 in those certain circumstances where sex is a bona fide occupational
25 qualification, reasonably necessary to the normal operation of the
26 particular business or enterprise; provided further that nothing herein
27 contained shall be construed to bar an employer from refusing to
28 accept for employment or to promote any person over 70 years of age;
29 provided further that it shall not be an unlawful employment practice
30 for a club exclusively social or fraternal to use club membership as a
31 uniform qualification for employment, or for a religious association or
32 organization to utilize religious affiliation as a uniform qualification in

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

Matter underlined thus is new matter.

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

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

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

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

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

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

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

43 (2) For any owner, lessee, proprietor, manager, superintendent,
44 agent, or employee of any private club or association to directly or
45 indirectly refuse, withhold from or deny to any individual who has
46 been accepted as a club member and has contracted for or is otherwise

1 entitled to full club membership any of the accommodations,
2 advantages, facilities or privileges thereof, or to discriminate against
3 any person in the furnishing thereof on account of the race, creed,
4 color, national origin, ancestry, marital status, sex, affectional or
5 sexual orientation or nationality of such person.

6 g. For the owner, lessee, sublessee, assignee or managing agent of,
7 or other person having the right of ownership or possession of or the
8 right to sell, rent, lease, assign, or sublease any real property or part
9 or portion thereof, or any agent or employee of any of these:

10 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
11 to deny to or withhold from any person or group of persons any real
12 property or part or portion thereof because of the race, creed, color,
13 national origin, ancestry, marital status, affectional or sexual
14 orientation, familial status or nationality of such person or group of
15 persons;

16 (2) To discriminate against any person or group of persons
17 because of the race, creed, color, national origin, marital status, sex,
18 affectional or sexual orientation or familial status of such person or
19 group of persons in the terms, conditions or privileges of the sale,
20 rental or lease of any real property or part or portion thereof or in the
21 furnishing of facilities or services in connection therewith; or

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

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

46 (1) To refuse to sell, rent, assign, lease or sublease, or offer for

1 sale, rental, lease, assignment, or sublease any real property or part or
2 portion thereof to any person or group of persons or to refuse to
3 negotiate for the sale, rental, lease, assignment, or sublease of any real
4 property or part or portion thereof to any person or group of persons
5 because of the race, creed, color, national origin, ancestry, marital
6 status, familial status, sex, affectional or sexual orientation or
7 nationality of such person or group of persons, or to represent that any
8 real property or portion thereof is not available for inspection, sale,
9 rental, lease, assignment, or sublease when in fact it is so available, or
10 otherwise to deny or withhold any real property or any part or portion
11 of facilities thereof to or from any person or group of persons because
12 of the race, creed, color, national origin, ancestry, marital status,
13 familial status, sex, affectional or sexual orientation or nationality of
14 such person or group of persons;

15 (2) To discriminate against any person because of his race, creed,
16 color, national origin, ancestry, marital status, familial status, sex or
17 affectional or sexual orientation in the terms, conditions or privileges
18 of the sale, rental, lease, assignment or sublease of any real property
19 or part or portion thereof or in the furnishing of facilities or services
20 in connection therewith; or

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

43 i. For any person, bank, banking organization, mortgage company,
44 insurance company or other financial institution, lender or credit
45 institution to whom application is made for any loan or extension of
46 credit including but not limited to an application for financial

1 assistance for the purchase, acquisition, construction, rehabilitation,
2 repair or maintenance of any real property or part or portion thereof
3 or any agent or employee thereof:

4 (1) To discriminate against any person or group of persons because
5 of the race, creed, color, national origin, ancestry, marital status, sex,
6 affectional or sexual orientation or nationality of such person or group
7 of persons or of the prospective occupants or tenants of such real
8 property or part or portion thereof, in the granting, withholding,
9 extending, modifying or renewing, or in the fixing of the rates, terms,
10 conditions or provisions of any such loan, extension of credit or
11 financial assistance or in the extension of services in connection
12 therewith; or

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

22 (3) To discriminate on the basis of familial status in any manner
23 described in paragraph (1) or (2) of this subsection with respect to any
24 real property.

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

29 k. For any real estate broker, real estate salesperson or employee
30 or agent thereof or any other individual, corporation, partnership, or
31 organization, for the purpose of inducing a transaction for the sale or
32 rental of real property from which transaction such person or any of
33 its members may benefit financially, to represent that a change has
34 occurred or will or may occur in the composition with respect to race,
35 creed, color, national origin, ancestry, marital status, familial status,
36 sex, affectional or sexual orientation or nationality of the owners or
37 occupants in the block, neighborhood or area in which the real
38 property is located, and to represent, directly or indirectly, that this
39 change will or may result in undesirable consequences in the block,
40 neighborhood or area in which the real property is located, including,
41 but not limited to the lowering of property values, an increase in
42 criminal or anti-social behavior, or a decline in the quality of schools
43 or other facilities.

44 l. For any person to refuse to buy from, sell to, lease from or to,
45 license, contract with, or trade with, provide goods, services or
46 information to, or otherwise do business with any other person on the

1 basis of the race, creed, color, national origin, ancestry, age, sex,
2 affectional or sexual orientation, marital status, liability for service in
3 the Armed Forces of the United States, or nationality of such other
4 person or of such other person's spouse, partners, members,
5 stockholders, directors, officers, managers, superintendents, agents,
6 employees, business associates, suppliers, or customers. This
7 subsection shall not prohibit refusals or other actions (1) pertaining to
8 employee-employer collective bargaining, labor disputes, or unfair
9 labor practices, or (2) made or taken in connection with a protest of
10 unlawful discrimination or unlawful employment practices.

11 m. For any person to:

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

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

28 The provisions of this subsection shall not apply to any letter of
29 credit, contract, or other document which contains any provision
30 pertaining to employee-employer collective bargaining, a labor dispute
31 or an unfair labor practice, or made in connection with the protest of
32 unlawful discrimination or an unlawful employment practice, if the
33 other provisions of such letter of credit, contract, or other document
34 do not otherwise violate the provisions of this subsection.

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

39 (1) Buying from, selling to, leasing from or to, licensing,
40 contracting with, trading with, providing goods, services, or
41 information to, or otherwise doing business with any person because
42 that person does, or agrees or attempts to do, any such act or any act
43 prohibited by this subsection n.; or

44 (2) Boycotting, commercially blacklisting or refusing to buy from,
45 sell to, lease from or to, license, contract with, provide goods, services
46 or information to, or otherwise do business with any person because

1 that person has not done or refuses to do any such act or any act
2 prohibited by this subsection n.; provided that this subsection n. shall
3 not prohibit refusals or other actions either pertaining to
4 employee-employer collective bargaining, labor disputes, or unfair
5 labor practices, or made or taken in connection with a protest of
6 unlawful discrimination or unlawful employment practices.

7 (cf: P.L.1992, c.146, s.9)

8

9 2. This act shall take effect immediately.

10

11

12 STATEMENT

13

14 This bill amends the "Law Against Discrimination" (LAD),
15 P.L.1945, c.169 (C.10:5-1 et seq.) to provide that once an individual
16 has been admitted to a private club, then club privileges and benefits
17 may not be withheld from that club member on the basis of race, creed,
18 color, national origin, ancestry, marital status, sex, affectional or
19 sexual orientation or nationality.

20 Currently, only clubs that are considered public accommodations
21 are subject to the anti-discrimination provisions of the LAD.
22 Distinctly private clubs, such as a club open only to members of a
23 particular volunteer firefighters organization, are not subject to the
24 LAD. A "loophole" therefore exists which would allow a private club
25 to discriminate against its own members, after admitting them to the
26 club. For example, it has been reported that some golf clubs are
27 assigning unfavorable tee times for female members, while reserving
28 preferential tee times for male members of the clubs. The bill would
29 prohibit this behavior, and any other type of discrimination which is
30 prohibited when carried out by a public accommodation.

31

32

33

34

35 Prohibits clubs from discriminating against members in certain cases.

ADOPT.

SEP 19 1996

ASSEMBLY JUDICIARY COMMITTEE

AMENDMENTS

to

ASSEMBLY, No. 432

(Sponsored By Assemblyman Kelly and Assemblywoman Wright)

REPLACE SECTION 1 TO READ:

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

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

a. For an employer, because of the race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, sex or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment; provided, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification, reasonably necessary to the normal operation of the particular business or enterprise; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment or to promote any person over 70 years of age; provided further that it shall not be an unlawful employment practice for a club exclusively social or fraternal to use club membership as a uniform qualification for employment, or for a religious association or organization to utilize religious affiliation as a uniform qualification in the employment of clergy, religious teachers or other employees engaged in the religious activities of the association or organization, or in following the tenets of its religion in establishing and utilizing criteria for employment of an employee; provided further, that it shall not be an unlawful employment practice to require the retirement of

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

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

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

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

d. For any person to take reprisals against any person because that person has opposed any practices or acts forbidden under this act or because that person has filed a complaint, testified or assisted in any proceeding under this act or to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or

enjoyment of, any right granted or protected by this act.

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

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

(2) ~~For~~ Notwithstanding the definition of "public accommodation" as set forth in subsection l. of section 4 of P.L. 1945, c. 169 (C.10:5-5), for¹ any owner, lessee, proprietor, manager, superintendent, agent, or employee of any private club or association to directly or indirectly refuse, withhold from or deny to any individual who has been accepted as a club member and has contracted for or is otherwise entitled to full club membership any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any ¹person~~member~~ in the furnishing thereof on account of the race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality of such person.

g. For the owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof, or any agent or employee of any of these:

(1) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, familial status or nationality of such person or group of persons;

(2) To discriminate against any person or group of persons because of the race, creed, color, national origin, marital status, sex, affectional or sexual orientation or familial status of such person or group of persons in the terms, conditions or privileges of the sale, rental or lease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith; or

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

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

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or

nationality of such person or group of persons, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons;

(2) To discriminate against any person because of his race, creed, color, national origin, ancestry, marital status, familial status, sex or affectional or sexual orientation in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith; or

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

i. For any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution to whom application is made for any loan or extension of credit including but not limited to an application for financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any real property or part or portion thereof or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality of such person or group of persons or of the prospective occupants or tenants

of such real property or part or portion thereof, in the granting, withholding, extending, modifying or renewing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or in the extension of services in connection therewith; or

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

(3) To discriminate on the basis of familial status in any manner described in paragraph (1) or (2) of this subsection with respect to any real property.

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

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

l. For any person to refuse to buy from, sell to, lease from or to, license, contract with, or trade with, provide goods, services or information to, or otherwise do business with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, liability for service in the Armed Forces of the United States, or nationality of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers. This subsection shall not prohibit refusals or other actions (1) pertaining to employee-employer collective bargaining, labor disputes, or unfair

labor practices, or (2) made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

m. For any person to:

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

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

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

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

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

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

(cf: P.L.1992, c.146, s.9)

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 432

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 1996

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 432.

This bill amends the "Law Against Discrimination" (LAD), section 11 of P.L.1945, c.169 (C.10:5-12) to provide that once an individual has been admitted to a private club, then club privileges and benefits may not be withheld from that club member on the basis of race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality.

Currently, only clubs that are considered public accommodations are subject to the anti-discrimination provisions of the LAD. Distinctly private clubs, such as a club open only to members of a particular volunteer firefighters organization, are not subject to the LAD. A "loophole" therefore exists which would allow a private club to discriminate against its own members, after admitting them to the club.

The committee amendments clarify that the committee is aware of the definition of "public accommodation" set forth in N.J.S.A.10:5-5 which states that nothing therein is intended to include or apply to any institution, club or place of accommodation which is distinctly private in nature. Notwithstanding that definition, the provisions of this bill apply to any private club or association with respect to a person who has been accepted as a club member and who has contracted for or is otherwise entitled to full club membership regarding the furnishing of any of the accommodations, advantages, facilities or privileges of the club or association. The committee amendments also change the reference to "person" to "member" in the last portion of the language being added by the bill to reinforce that the bill is addressed to members of private clubs following their admission to the club who are otherwise entitled to full club membership. There was a concern that the language "...or to discriminate against any person in the furnishing thereof on account of..." may have been read too broadly without that change.

An example discussed was the preferential setting of tee times by private golf clubs for males paying for a full club membership while

females paying for a full club membership at that club may be relegated to less desirable times.

This bill was prefiled for introduction in the 1996 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

[First Reprint]
ASSEMBLY, No. 432

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KELLY, Assemblywoman WRIGHT,
Assemblyman Doria, Assemblywoman Turner,
Assemblymen Dalton, Cohen, Impreveduto, Jones,
Assemblywoman Vandervalk, Assemblyman Zisa,
Assemblywomen Gill, Quigley, Weinberg, Crecco,
Assemblymen O'Toole and DiGaetano

1 AN ACT concerning discrimination and amending P.L. 1945, c. 169.

2

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

5

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

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

10 a. For an employer, because of the race, creed, color, national
11 origin, ancestry, age, marital status, affectional or sexual orientation,
12 sex or atypical hereditary cellular or blood trait of any individual, or
13 because of the liability for service in the Armed Forces of the United
14 States or the nationality of any individual, to refuse to hire or employ
15 or to bar or to discharge or require to retire, unless justified by lawful
16 considerations other than age, from employment such individual or to
17 discriminate against such individual in compensation or in terms,
18 conditions or privileges of employment; provided, however, it shall not
19 be an unlawful employment practice to refuse to accept for
20 employment an applicant who has received a notice of induction or
21 orders to report for active duty in the armed forces; provided further
22 that nothing herein contained shall be construed to bar an employer
23 from refusing to accept for employment any person on the basis of sex
24 in those certain circumstances where sex is a bona fide occupational
25 qualification, reasonably necessary to the normal operation of the
26 particular business or enterprise; provided further that nothing herein

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

Matter underlined thus is new matter.

**Matter enclosed in superscript numerals has been adopted as follows:
1 Assembly AJU committee amendments adopted September 19, 1996.**

1 contained shall be construed to bar an employer from refusing to
2 accept for employment or to promote any person over 70 years of age;
3 provided further that it shall not be an unlawful employment practice
4 for a club exclusively social or fraternal to use club membership as a
5 uniform qualification for employment, or for a religious association or
6 organization to utilize religious affiliation as a uniform qualification in
7 the employment of clergy, religious teachers or other employees
8 engaged in the religious activities of the association or organization,
9 or in following the tenets of its religion in establishing and utilizing
10 criteria for employment of an employee; provided further, that it shall
11 not be an unlawful employment practice to require the retirement of
12 any employee who, for the two-year period immediately before
13 retirement, is employed in a bona fide executive or a high
14 policy-making position, if that employee is entitled to an immediate
15 non-forfeitable annual retirement benefit from a pension, profit
16 sharing, savings or deferred retirement plan, or any combination of
17 those plans, of the employer of that employee which equals in the
18 aggregate at least \$27,000.00; and provided further that an employer
19 may restrict employment to citizens of the United States where such
20 restriction is required by federal law or is otherwise necessary to
21 protect the national interest.

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

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

42 c. For any employer or employment agency to print or circulate or
43 cause to be printed or circulated any statement, advertisement or
44 publication, or to use any form of application for employment, or to
45 make an inquiry in connection with prospective employment, which
46 expresses, directly or indirectly, any limitation, specification or

1 discrimination as to race, creed, color, national origin, ancestry, age,
2 marital status, affectional or sexual orientation or sex or liability of any
3 applicant for employment for service in the Armed Forces of the
4 United States, or any intent to make any such limitation, specification
5 or discrimination, unless based upon a bona fide occupational
6 qualification.

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

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

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

1 as defined in R.S.33:1-1 or place where alcoholic beverages are
2 served.

3 (2) ~~1 [For] Notwithstanding the definition of "public accomodation"~~
4 ~~as set forth in subsection l. of section 4 of P.L. 1945, c. 169 (C.10:5-5).~~
5 ~~for¹ any owner, lessee, proprietor, manager, superintendent, agent, or~~
6 ~~employee of any private club or association to directly or indirectly~~
7 ~~refuse, withhold from or deny to any individual who has been accepted~~
8 ~~as a club member and has contracted for or is otherwise entitled to full~~
9 ~~club membership any of the accommodations, advantages, facilities or~~
10 ~~privileges thereof, or to discriminate against any ¹ [person] member¹~~
11 ~~in the furnishing thereof on account of the race, creed, color, national~~
12 ~~origin, ancestry, marital status, sex, affectional or sexual orientation~~
13 ~~or nationality of such person.~~

14 g. For the owner, lessee, sublessee, assignee or managing agent of,
15 or other person having the right of ownership or possession of or the
16 right to sell, rent, lease, assign, or sublease any real property or part
17 or portion thereof, or any agent or employee of any of these:

18 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
19 to deny to or withhold from any person or group of persons any real
20 property or part or portion thereof because of the race, creed, color,
21 national origin, ancestry, marital status, affectional or sexual
22 orientation, familial status or nationality of such person or group of
23 persons;

24 (2) To discriminate against any person or group of persons
25 because of the race, creed, color, national origin, marital status, sex,
26 affectional or sexual orientation or familial status of such person or
27 group of persons in the terms, conditions or privileges of the sale,
28 rental or lease of any real property or part or portion thereof or in the
29 furnishing of facilities or services in connection therewith; or

30 (3) To print, publish, circulate, issue, display, post or mail, or
31 cause to be printed, published, circulated, issued, displayed, posted or
32 mailed any statement, advertisement, publication or sign, or to use any
33 form of application for the purchase, rental, lease, assignment or
34 sublease of any real property or part or portion thereof, or to make
35 any record or inquiry in connection with the prospective purchase,
36 rental, lease, assignment, or sublease of any real property, or part or
37 portion thereof which expresses, directly or indirectly, any limitation,
38 specification or discrimination as to race, creed, color, national origin,
39 ancestry, marital status, sex, affectional or sexual orientation, familial
40 status or nationality, or any intent to make any such limitation,
41 specification or discrimination, and the production of any such
42 statement, advertisement, publicity, sign, form of application, record,
43 or inquiry purporting to be made by any such person shall be
44 presumptive evidence in any action that the same was authorized by
45 such person; provided, however, that nothing contained in this
46 subsection shall be construed to bar any person from refusing to sell,

1 rent, lease, assign or sublease or from advertising or recording a
2 qualification as to sex for any room, apartment, flat in a dwelling or
3 residential facility which is planned exclusively for and occupied by
4 individuals of one sex to any individual of the exclusively opposite sex
5 on the basis of sex.

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

8 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
9 sale, rental, lease, assignment, or sublease any real property or part or
10 portion thereof to any person or group of persons or to refuse to
11 negotiate for the sale, rental, lease, assignment, or sublease of any real
12 property or part or portion thereof to any person or group of persons
13 because of the race, creed, color, national origin, ancestry, marital
14 status, familial status, sex, affectional or sexual orientation or
15 nationality of such person or group of persons, or to represent that any
16 real property or portion thereof is not available for inspection, sale,
17 rental, lease, assignment, or sublease when in fact it is so available, or
18 otherwise to deny or withhold any real property or any part or portion
19 of facilities thereof to or from any person or group of persons because
20 of the race, creed, color, national origin, ancestry, marital status,
21 familial status, sex, affectional or sexual orientation or nationality of
22 such person or group of persons;

23 (2) To discriminate against any person because of his race, creed,
24 color, national origin, ancestry, marital status, familial status, sex or
25 affectional or sexual orientation in the terms, conditions or privileges
26 of the sale, rental, lease, assignment or sublease of any real property
27 or part or portion thereof or in the furnishing of facilities or services
28 in connection therewith; or

29 (3) To print, publish, circulate, issue, display, post, or mail, or
30 cause to be printed, published, circulated, issued, displayed, posted or
31 mailed any statement, advertisement, publication or sign, or to use any
32 form of application for the purchase, rental, lease, assignment, or
33 sublease of any real property or part or portion thereof or to make any
34 record or inquiry in connection with the prospective purchase, rental,
35 lease, assignment, or sublease of any real property or part or portion
36 thereof which expresses, directly or indirectly, any limitation,
37 specification or discrimination as to race, creed, color, national origin,
38 ancestry, marital status, familial status, sex, affectional or sexual
39 orientation or nationality or any intent to make any such limitation,
40 specification or discrimination, and the production of any such
41 statement, advertisement, publicity, sign, form of application, record,
42 or inquiry purporting to be made by any such person shall be
43 presumptive evidence in any action that the same was authorized by
44 such person; provided, however, that nothing contained in this
45 subsection h., shall be construed to bar any person from refusing to
46 sell, rent, lease, assign or sublease or from advertising or recording a

1 qualification as to sex for any room, apartment, flat in a dwelling or
2 residential facility which is planned exclusively for and occupied
3 exclusively by individuals of one sex to any individual of the opposite
4 sex on the basis of sex.

5 i. For any person, bank, banking organization, mortgage company,
6 insurance company or other financial institution, lender or credit
7 institution to whom application is made for any loan or extension of
8 credit including but not limited to an application for financial
9 assistance for the purchase, acquisition, construction, rehabilitation,
10 repair or maintenance of any real property or part or portion thereof
11 or any agent or employee thereof:

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

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

30 (3) To discriminate on the basis of familial status in any manner
31 described in paragraph (1) or (2) of this subsection with respect to any
32 real property.

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

37 k. For any real estate broker, real estate salesperson or employee
38 or agent thereof or any other individual, corporation, partnership, or
39 organization, for the purpose of inducing a transaction for the sale or
40 rental of real property from which transaction such person or any of
41 its members may benefit financially, to represent that a change has
42 occurred or will or may occur in the composition with respect to race,
43 creed, color, national origin, ancestry, marital status, familial status,
44 sex, affectional or sexual orientation or nationality of the owners or
45 occupants in the block, neighborhood or area in which the real
46 property is located, and to represent, directly or indirectly, that this

1 change will or may result in undesirable consequences in the block,
2 neighborhood or area in which the real property is located, including,
3 but not limited to the lowering of property values, an increase in
4 criminal or anti-social behavior, or a decline in the quality of schools
5 or other facilities.

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

19 m. For any person to:

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

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

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

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

1 (1) Buying from, selling to, leasing from or to, licensing,
2 contracting with, trading with, providing goods, services, or
3 information to, or otherwise doing business with any person because
4 that person does, or agrees or attempts to do, any such act or any act
5 prohibited by this subsection n.; or

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

15 (cf: P.L.1992, c.146, s.9)

16

17 2. This act shall take effect immediately.

18

19

20

21

22 Prohibits clubs from discriminating against members in certain cases.

50 OCT 21 4:3:09

10/10/96 D.L.S.
G:\CMULPS\09\BILLS\09_0062.DOC

<input checked="" type="checkbox"/>	Speaker
<input checked="" type="checkbox"/>	Clerk (3)
<input type="checkbox"/>	Majority Leader
<input type="checkbox"/>	Minority Leader
<input type="checkbox"/>	Sponsor of Aa
<input type="checkbox"/>	Sponsor of E

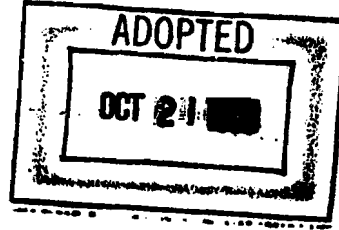
ASSEMBLY AMENDMENTS
(Proposed By Assemblyman KELLY)

to

[First Reprint]

ASSEMBLY, No. 432

(Sponsored By Assemblyman KELLY and Assemblywoman WRIGHT)



REPLACE SECTION 1 TO READ:

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

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

a. For an employer, because of the race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, sex or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment; provided, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification, reasonably necessary to the normal operation of the particular business or enterprise; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment or to promote any person over 70 years of age; provided further that it shall not be an unlawful employment practice for a club exclusively social or fraternal to use club membership as a uniform qualification for employment, or for a religious association or organization to utilize religious affiliation as a uniform qualification in the employment of clergy, religious teachers or other employees engaged in the religious activities of the association or organization, or in following the tenets of its religion in establishing and utilizing

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

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

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

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

d. For any person to take reprisals against any person because that person has opposed any practices or acts forbidden under this act or because that person has filed a complaint, testified or assisted in any proceeding under this act or to coerce, intimidate, threaten or interfere

with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.

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

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

(2) '[For] Notwithstanding the definition of "public
accommodation" as set forth in subsection 1. of
section 4 of P.L. 1945, c. 169 (C.10:5-5), for
any owner, lessee, proprietor, manager, superintendent, agent, or employee of any private
club or association to directly or indirectly refuse, withhold from or
deny to any individual who has been accepted as a club member and
has contracted for or is otherwise entitled to full club membership any
of the accommodations, advantages, facilities or privileges thereof, or
to discriminate against any '[person] member' in the furnishing

thereof on account of the race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality of such person.

²In addition to the penalties otherwise provided for a violation of P.L. 1945, c. 169 (C. 10:5-1 et seq.), if the violator of paragraph (2) of subsection f. of this section is the holder of an alcoholic beverage license issued under the provisions of R.S. 33:1-12 that license, for a first offense, shall be suspended by the Director of the Division of Alcoholic Beverages for a period of not less than 15 days or more than 60 days and, for a second offense, shall be revoked by the director and the licensed premises ineligible for any license issued under the provisions of chapter 1 of Title 33 of the Revised Statutes for a period of no less than two years following the date of the revocation. A suspension or revocation authorized under this paragraph shall be effectuated in accordance with the procedures set forth in R.S. 33:1-31.²

g. For the owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof, or any agent or employee of any of these:

(1) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, familial status or nationality of such person or group of persons;

(2) To discriminate against any person or group of persons because of the race, creed, color, national origin, marital status, sex, affectional or sexual orientation or familial status of such person or group of persons in the terms, conditions or privileges of the sale, rental or lease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith; or

(3) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property, or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, familial status or nationality, or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by

such person; provided, however, that nothing contained in this subsection shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied by individuals of one sex to any individual of the exclusively opposite sex on the basis of sex.

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

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons;

(2) To discriminate against any person because of his race, creed, color, national origin, ancestry, marital status, familial status, sex or affectional or sexual orientation in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith; or

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection h., shall be construed to bar any person from refusing to

sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied exclusively by individuals of one sex to any individual of the opposite sex on the basis of sex.

i. For any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution to whom application is made for any loan or extension of credit including but not limited to an application for financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any real property or part or portion thereof or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality of such person or group of persons or of the prospective occupants or tenants of such real property or part or portion thereof, in the granting, withholding, extending, modifying or renewing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or in the extension of services in connection therewith; or

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

(3) To discriminate on the basis of familial status in any manner described in paragraph (1) or (2) of this subsection with respect to any real property.

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

k. For any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership, or organization, for the purpose of inducing a transaction for the sale or rental of real property from which transaction such person or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this

change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including, but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

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

m. For any person to:

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

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

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

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

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

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

(cf: P.L.1992, c.146, s.9)

STATEMENT

This Assembly amendment would impose an additional penalty on private clubs and associations which violate the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).

Under the provisions of this amendment, private clubs and associations which are licensed to serve alcoholic beverages would have those licenses suspended or revoked if they are found guilty of discriminating against any of their members. The amendments provide that for a first offense, the club would have its license suspended for a period of not less than 15 days or more than 60 days. For a second offense, the club would have its license revoked and would be ineligible for another license for a period of at least two years.

The amendments also correct a spelling error.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 432

with Assembly Floor Amendments
(Proposed By Assemblyman KELLY)

ADOPTED: OCTOBER 21, 1996

This Assembly amendment would impose an additional penalty on private clubs and associations which violate the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).

Under the provisions of this amendment, private clubs and associations which are licensed to serve alcoholic beverages would have those licenses suspended or revoked if they are found guilty of discriminating against any of their members. The amendments provide that for a first offense, the club would have its license suspended for a period of not less than 15 days or more than 60 days. For a second offense, the club would have its license revoked and would be ineligible for another license for a period of at least two years.

The amendments also correct a spelling error.

[Second Reprint]
ASSEMBLY, No. 432

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KELLY, Assemblywoman WRIGHT,
Assemblyman Doria, Assemblywoman Turner, Assemblymen
Dalton, Cohen, Impreveduto, Jones, Assemblywoman
Vandervalk, Assemblyman Zisa, Assemblywomen Gill,
Quigley, Weinberg, Crecco, Assemblymen O'Toole and
DiGaetano

1 AN ACT concerning discrimination and amending P.L.1945, c.169.

2

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

5

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

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

10 a. For an employer, because of the race, creed, color, national
11 origin, ancestry, age, marital status, affectional or sexual orientation,
12 sex or atypical hereditary cellular or blood trait of any individual, or
13 because of the liability for service in the Armed Forces of the United
14 States or the nationality of any individual, to refuse to hire or employ
15 or to bar or to discharge or require to retire, unless justified by lawful
16 considerations other than age, from employment such individual or to
17 discriminate against such individual in compensation or in terms,
18 conditions or privileges of employment; provided, however, it shall not
19 be an unlawful employment practice to refuse to accept for
20 employment an applicant who has received a notice of induction or
21 orders to report for active duty in the armed forces; provided further
22 that nothing herein contained shall be construed to bar an employer
23 from refusing to accept for employment any person on the basis of sex
24 in those certain circumstances where sex is a bona fide occupational
25 qualification, reasonably necessary to the normal operation of the
26 particular business or enterprise; provided further that nothing herein

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJU committee amendments adopted September 19, 1996.

² Assembly floor amendments adopted October 21, 1996.

1 contained shall be construed to bar an employer from refusing to
2 accept for employment or to promote any person over 70 years of age;
3 provided further that it shall not be an unlawful employment practice
4 for a club exclusively social or fraternal to use club membership as a
5 uniform qualification for employment, or for a religious association or
6 organization to utilize religious affiliation as a uniform qualification in
7 the employment of clergy, religious teachers or other employees
8 engaged in the religious activities of the association or organization,
9 or in following the tenets of its religion in establishing and utilizing
10 criteria for employment of an employee; provided further, that it shall
11 not be an unlawful employment practice to require the retirement of
12 any employee who, for the two-year period immediately before
13 retirement, is employed in a bona fide executive or a high
14 policy-making position, if that employee is entitled to an immediate
15 non-forfeitable annual retirement benefit from a pension, profit
16 sharing, savings or deferred retirement plan, or any combination of
17 those plans, of the employer of that employee which equals in the
18 aggregate at least \$27,000.00; and provided further that an employer
19 may restrict employment to citizens of the United States where such
20 restriction is required by federal law or is otherwise necessary to
21 protect the national interest.

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

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

42 c. For any employer or employment agency to print or circulate or
43 cause to be printed or circulated any statement, advertisement or
44 publication, or to use any form of application for employment, or to
45 make an inquiry in connection with prospective employment, which
46 expresses, directly or indirectly, any limitation, specification or

1 discrimination as to race, creed, color, national origin, ancestry, age,
2 marital status, affectional or sexual orientation or sex or liability of any
3 applicant for employment for service in the Armed Forces of the
4 United States, or any intent to make any such limitation, specification
5 or discrimination, unless based upon a bona fide occupational
6 qualification.

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

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

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

1 as defined in R.S.33:1-1 or place where alcoholic beverages are
2 served.

3 (2) ¹[For] Notwithstanding the definition of "public
4 ²[accomodation] accommodation² " as set forth in subsection l. of
5 section 4 of P.L.1945, c.169 (C.10:5-5), for¹ any owner, lessee,
6 proprietor, manager, superintendent, agent, or employee of any private
7 club or association to directly or indirectly refuse, withhold from or
8 deny to any individual who has been accepted as a club member and
9 has contracted for or is otherwise entitled to full club membership any
10 of the accommodations, advantages, facilities or privileges thereof, or
11 to discriminate against any ¹[person] member¹ in the furnishing
12 thereof on account of the race, creed, color, national origin, ancestry,
13 marital status, sex, affectional or sexual orientation or nationality of
14 such person.

15 ²In addition to the penalties otherwise provided for a violation of
16 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of
17 subsection f. of this section is the holder of an alcoholic beverage
18 license issued under the provisions of R.S.33:1-12 that license, for a
19 first offense, shall be suspended by the Director of the Division of
20 Alcoholic Beverages for a period of not less than 15 days or more
21 than 60 days and, for a second offense, shall be revoked by the
22 director and the licensed premises ineligible for any license issued
23 under the provisions of chapter 1 of Title 33 of the Revised Statutes
24 for a period of no less than two years following the date of the
25 revocation. A suspension or revocation authorized under this
26 paragraph shall be effectuated in accordance with the procedures set
27 forth in R.S.33:1-31.²

28 g. For the owner, lessee, sublessee, assignee or managing agent of,
29 or other person having the right of ownership or possession of or the
30 right to sell, rent, lease, assign, or sublease any real property or part
31 or portion thereof, or any agent or employee of any of these:

32 (1) 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 race, creed, color,
35 national origin, ancestry, marital status, affectional or sexual
36 orientation, familial status or nationality of such person or group of
37 persons;

38 (2) To discriminate against any person or group of persons
39 because of the race, creed, color, national origin, marital status, sex,
40 affectional or sexual orientation or familial status of such person or
41 group of persons in the terms, conditions or privileges of the sale,
42 rental or lease of any real property or part or portion thereof or in the
43 furnishing of facilities or services in connection therewith; or

44 (3) To print, publish, circulate, issue, display, post or mail, or
45 cause to be printed, published, circulated, issued, displayed, posted or
46 mailed any statement, advertisement, publication or sign, or to use any

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

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

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

37 (2) To discriminate against any person because of his race, creed,
38 color, national origin, ancestry, marital status, familial status, sex or
39 affectional or sexual orientation in the terms, conditions or privileges
40 of the sale, rental, lease, assignment or sublease of any real property
41 or part or portion thereof or in the furnishing of facilities or services
42 in connection therewith; or

43 (3) To print, publish, circulate, issue, display, post, or mail, or
44 cause to be printed, published, circulated, issued, displayed, posted or
45 mailed any statement, advertisement, publication or sign, or to use any
46 form of application for the purchase, rental, lease, assignment, or

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

19 i. For any person, bank, banking organization, mortgage company,
20 insurance company or other financial institution, lender or credit
21 institution to whom application is made for any loan or extension of
22 credit including but not limited to an application for financial
23 assistance for the purchase, acquisition, construction, rehabilitation,
24 repair or maintenance of any real property or part or portion thereof
25 or any agent or employee thereof:

26 (1) To discriminate against any person or group of persons because
27 of the race, creed, color, national origin, ancestry, marital status, sex,
28 affectional or sexual orientation or nationality of such person or group
29 of persons or of the prospective occupants or tenants of such real
30 property or part or portion thereof, in the granting, withholding,
31 extending, modifying or renewing, or in the fixing of the rates, terms,
32 conditions or provisions of any such loan, extension of credit or
33 financial assistance or in the extension of services in connection
34 therewith; or

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

44 (3) To discriminate on the basis of familial status in any manner
45 described in paragraph (1) or (2) of this subsection with respect to any
46 real property.

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

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

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

33 m. For any person to:

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

46 (2) Refuse to grant or accept any letter of credit or other document

1 which evidences the transfer of funds or credit, or refuse to enter into
2 any contract for the exchange of goods or services, on the ground that
3 it does not contain such a discriminatory provision or certification.

4 The provisions of this subsection shall not apply to any letter of
5 credit, contract, or other document which contains any provision
6 pertaining to employee-employer collective bargaining, a labor dispute
7 or an unfair labor practice, or made in connection with the protest of
8 unlawful discrimination or an unlawful employment practice, if the
9 other provisions of such letter of credit, contract, or other document
10 do not otherwise violate the provisions of this subsection.

11 n. For any person to aid, abet, incite, compel, coerce, or induce the
12 doing of any act forbidden by subsections l. and m. of section 11 of
13 P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so.

14 Such prohibited conduct shall include, but not be limited to:

15 (1) Buying from, selling to, leasing from or to, licensing,
16 contracting with, trading with, providing goods, services, or
17 information to, or otherwise doing business with any person because
18 that person does, or agrees or attempts to do, any such act or any act
19 prohibited by this subsection n.; or

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

29 (cf: P.L.1992, c.146, s.9)

30

31 2. This act shall take effect immediately.

32

33

34

35

36 Prohibits clubs from discriminating against members in certain cases.

SENATE JUDICIARY COMMITTEE

ADOPTED

MAY 8 1997

AMENDMENTS

to

[Second Reprint]

ASSEMBLY, No. 432

(Sponsored By Assemblyman Kelly and Assemblywoman Wright)

REPLACE SECTION 1 TO READ:

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

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

For an employer, because of the race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, ³genetic information,³ sex or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, ³or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer,³ to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment; provided, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification, reasonably necessary to the normal operation of the particular business or enterprise; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment or to promote any person over 70 years of age; provided further that it shall not be an unlawful employment practice for a club exclusively social or fraternal to use club membership as a uniform qualification for employment, or for a religious association or organization to utilize religious affiliation as a uniform qualification in

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

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

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

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

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

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

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

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

(2) ¹[For] Notwithstanding the definition of "public
²accommodation] accommodation" ³as set forth in subsection 1. of
⁴section 5 of P.L. 1945, c. 169 (C-10:5-5), for⁵any owner, lessee,
proprietor, manager, superintendent, agent, or employee of any private
club or association to directly or indirectly refuse, withhold from or
deny to any individual who has been accepted as a club member and

has contracted for or is otherwise entitled to full club membership any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any ¹[person] member¹ in the furnishing thereof on account of the race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality of such person.

²In addition to the penalties otherwise provided for a violation of P.L. 1945, c. 169 (C. 10:5-1 et seq.), if the violator of paragraph (2) of subsection f. of this section is the holder of an alcoholic beverage license issued under the provisions of R.S. 33:1-12 ³[that license, for a first offense, shall be suspended by] for that private club or association, the matter shall be referred to³ the Director of the Division of Alcoholic ³[Beverages for a period of not less than 15 days or more than 60 days and, for a second offense, shall be revoked by the director and the licensed premises ineligible for any license issued under the provisions of chapter 1 of Title 33 of the Revised Statutes for a period of no less than two years following the date of the revocation. A suspension or revocation authorized under this paragraph shall be effectuated] Beverage Control who shall impose an appropriate penalty³ in accordance with the procedures set forth in R.S. 33:1-31.²

g. For the owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof, or any agent or employee of any of these:

(1) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, familial status or nationality of such person or group of persons;

(2) To discriminate against any person or group of persons because of the race, creed, color, national origin, marital status, sex, affectional or sexual orientation or familial status of such person or group of persons in the terms, conditions or privileges of the sale, rental or lease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith; or

(3) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property, or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, familial

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

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

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons;

(2) To discriminate against any person because of his race, creed, color, national origin, ancestry, marital status, familial status, sex or affectional or sexual orientation in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith; or

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof of which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality or any intent to make any such limitation, specification or discrimination, and the production of any such

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

i. For any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution to whom application is made for any loan or extension of credit including but not limited to an application for financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any real property or part or portion thereof or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality of such person or group of persons or of the prospective occupants or tenants of such real property or part or portion thereof, in the granting, withholding, extending, modifying or renewing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or in the extension of services in connection therewith; or

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

(3) To discriminate on the basis of familial status in any manner described in paragraph (1) or (2) of this subsection with respect to any real property.

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

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

occurred or will or may occur in the composition with respect to race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including, but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

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

m. For any person to:

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

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

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

do not otherwise violate the provisions of this subsection.

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

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

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

(cf: P.L.1996, c.126, s.5)

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 432

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 8, 1997

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 432 (2R).

This bill amends the "Law Against Discrimination" (LAD), section 11 of P.L.1945, c.169 (C.10:5-12) to provide that once an individual has been admitted to a private club, then club privileges and benefits may not be withheld from that club member on the basis of race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality.

Currently, only clubs that are considered public accommodations are subject to the anti-discrimination provisions of the LAD. Distinctly private clubs, such as a club open only to members of a particular volunteer firefighters organization, are not subject to the LAD. A "loophole" therefore exists which would allow a private club to discriminate against its own members, after admitting them to the club.

According to the bills' statements, the sponsors are aware of the definition of "a place of accommodation" set forth in N.J.S.A.10:5-5 which states that nothing therein is intended to include or apply to any institution, club or place of accommodation which is distinctly private in nature. Notwithstanding that definition, the provisions of this bill apply to any private club or association with respect to a person who has been accepted as a the primary member of a club and who has contracted for or is otherwise entitled to full club membership regarding the furnishing of any of the accommodations, advantages, facilities or privileges of the club or association. An example of the need for this legislation is the preferential setting of tee times by private golf clubs for males paying for a full club membership while females paying for a full club membership at that club may be relegated to less desirable times.

Under the provisions of this bill, private clubs and associations which are licensed to serve alcoholic beverages would have those licenses suspended or revoked if they are found guilty of discriminating against any of their members.

The amendments adopted by the committee clarify that the suspension of a club's liquor license under the bill shall be in accordance with the procedures set forth in Title 33. The amendments also conform the provisions of the bill to the provisions of P.L. 1996, c. 126 and correct technical errors.

[Third Reprint]
ASSEMBLY, No. 432

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KELLY, Assemblywoman WRIGHT,
Assemblyman Doria, Assemblywoman Turner, Assemblymen
Dalton, Cohen, Impreveduto, Jones, Assemblywoman
Vandervalk, Assemblyman Zisa, Assemblywomen Gill,
Quigley, Weinberg, Crecco, Assemblymen O'Toole,
DiGaetano and Assemblywoman Vandervalk

1 AN ACT concerning discrimination and amending P.L.1945, c.169.

2

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

5

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

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

10 a. For an employer, because of the race, creed, color, national
11 origin, ancestry, age, marital status, affectional or sexual orientation,
12 ³genetic information,³ sex or atypical hereditary cellular or blood trait
13 of any individual, or because of the liability for service in the Armed
14 Forces of the United States or the nationality of any individual, ³or
15 ~~because of the refusal to submit to a genetic test or make available the~~
16 ~~results of a genetic test to an employer,~~³ to refuse to hire or employ
17 or to bar or to discharge or require to retire, unless justified by lawful
18 considerations other than age, from employment such individual or to
19 discriminate against such individual in compensation or in terms,
20 conditions or privileges of employment; provided, however, it shall not
21 be an unlawful employment practice to refuse to accept for
22 employment an applicant who has received a notice of induction or
23 orders to report for active duty in the armed forces; provided further
24 that nothing herein contained shall be construed to bar an employer
25 from refusing to accept for employment any person on the basis of sex

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJU committee amendments adopted September 19, 1996.

² Assembly floor amendments adopted October 21, 1996.

³ Senate SJU committee amendments adopted May 8, 1997.

1 in those certain circumstances where sex is a bona fide occupational
2 qualification, reasonably necessary to the normal operation of the
3 particular business or enterprise; provided further that nothing herein
4 contained shall be construed to bar an employer from refusing to
5 accept for employment or to promote any person over 70 years of age;
6 provided further that it shall not be an unlawful employment practice
7 for a club exclusively social or fraternal to use club membership as a
8 uniform qualification for employment, or for a religious association or
9 organization to utilize religious affiliation as a uniform qualification in
10 the employment of clergy, religious teachers or other employees
11 engaged in the religious activities of the association or organization,
12 or in following the tenets of its religion in establishing and utilizing
13 criteria for employment of an employee; provided further, that it shall
14 not be an unlawful employment practice to require the retirement of
15 any employee who, for the two-year period immediately before
16 retirement, is employed in a bona fide executive or a high
17 policy-making position, if that employee is entitled to an immediate
18 non-forfeitable annual retirement benefit from a pension, profit
19 sharing, savings or deferred retirement plan, or any combination of
20 those plans, of the employer of that employee which equals in the
21 aggregate at least \$27,000.00; and provided further that an employer
22 may restrict employment to citizens of the United States where such
23 restriction is required by federal law or is otherwise necessary to
24 protect the national interest.

25 For the purposes of this subsection, a "bona fide executive" is a top
26 level employee who exercises substantial executive authority over a
27 significant number of employees and a large volume of business. A
28 "high policy-making position" is a position in which a person plays a
29 significant role in developing policy and in recommending the
30 implementation thereof.

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

45 c. For any employer or employment agency to print or circulate or
46 cause to be printed or circulated any statement, advertisement or

1 publication, or to use any form of application for employment, or to
2 make an inquiry in connection with prospective employment, which
3 expresses, directly or indirectly, any limitation, specification or
4 discrimination as to race, creed, color, national origin, ancestry, age,
5 marital status, affectional or sexual orientation or sex or liability of any
6 applicant for employment for service in the Armed Forces of the
7 United States, or any intent to make any such limitation, specification
8 or discrimination, unless based upon a bona fide occupational
9 qualification.

10 d. For any person to take reprisals against any person because that
11 person has opposed any practices or acts forbidden under this act or
12 because that person has filed a complaint, testified or assisted in any
13 proceeding under this act or to coerce, intimidate, threaten or interfere
14 with any person in the exercise or enjoyment of, or on account of that
15 person having aided or encouraged any other person in the exercise or
16 enjoyment of, any right granted or protected by this act.

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

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

1 any individual of the opposite sex any of the accommodations,
2 advantages, facilities or privileges thereof on the basis of sex; provided
3 further, that the foregoing limitation shall not apply to any restaurant
4 as defined in R.S.33:1-1 or place where alcoholic beverages are
5 served.

6 (2) ¹[For] Notwithstanding the definition of "public
7 ²[accommodation] accommodation²" as set forth in subsection l. of
8 section ³[4] ⁵ of P.L.1945, c.169 (C.10:5-5), for¹ any owner, lessee,
9 proprietor, manager, superintendent, agent, or employee of any private
10 club or association to directly or indirectly refuse, withhold from or
11 deny to any individual who has been accepted as a club member and
12 has contracted for or is otherwise entitled to full club membership any
13 of the accommodations, advantages, facilities or privileges thereof, or
14 to discriminate against any ¹[person] member¹ in the furnishing
15 thereof on account of the race, creed, color, national origin, ancestry,
16 marital status, sex, affectional or sexual orientation or nationality of
17 such person.

18 ²In addition to the penalties otherwise provided for a violation of
19 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of
20 subsection f. of this section is the holder of an alcoholic beverage
21 license issued under the provisions of R.S.33:1-12 ³[that license, for
22 a first offense, shall be suspended by] for that private club or
23 association, the matter shall be referred to³ the Director of the
24 Division of Alcoholic ³[Beverages for a period of not less than 15
25 days or more than 60 days and, for a second offense, shall be revoked
26 by the director and the licensed premises ineligible for any license
27 issued under the provisions of chapter 1 of Title 33 of the Revised
28 Statutes for a period of no less than two years following the date of
29 the revocation. A suspension or revocation authorized under this
30 paragraph shall be effectuated] Beverage Control who shall impose an
31 appropriate penalty³ in accordance with the procedures set forth in
32 R.S.33:1-31.²

33 g. For the owner, lessee, sublessee, assignee or managing agent of,
34 or other person having the right of ownership or possession of or the
35 right to sell, rent, lease, assign, or sublease any real property or part
36 or portion thereof, or any agent or employee of any of these:

37 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
38 to deny to or withhold from any person or group of persons any real
39 property or part or portion thereof because of the race, creed, color,
40 national origin, ancestry, marital status, affectional or sexual
41 orientation, familial status or nationality of such person or group of
42 persons;

43 (2) To discriminate against any person or group of persons
44 because of the race, creed, color, national origin, marital status, sex,
45 affectional or sexual orientation or familial status of such person or
46 group of persons in the terms, conditions or privileges of the sale,

1 rental or lease of any real property or part or portion thereof or in the
2 furnishing of facilities or services in connection therewith; or

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

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

27 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
28 sale, rental, lease, assignment, or sublease any real property or part or
29 portion thereof to any person or group of persons or to refuse to
30 negotiate for the sale, rental, lease, assignment, or sublease of any real
31 property or part or portion thereof to any person or group of persons
32 because of the race, creed, color, national origin, ancestry, marital
33 status, familial status, sex, affectional or sexual orientation or
34 nationality of such person or group of persons, or to represent that any
35 real property or portion thereof is not available for inspection, sale,
36 rental, lease, assignment, or sublease when in fact it is so available, or
37 otherwise to deny or withhold any real property or any part or portion
38 of facilities thereof to or from any person or group of persons because
39 of the race, creed, color, national origin, ancestry, marital status,
40 familial status, sex, affectional or sexual orientation or nationality of
41 such person or group of persons;

42 (2) To discriminate against any person because of his race, creed,
43 color, national origin, ancestry, marital status, familial status, sex or
44 affectional or sexual orientation in the terms, conditions or privileges
45 of the sale, rental, lease, assignment or sublease of any real property
46 or part or portion thereof or in the furnishing of facilities or services

1 in connection therewith; or

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

24 i. For any person, bank, banking organization, mortgage company,
25 insurance company or other financial institution, lender or credit
26 institution to whom application is made for any loan or extension of
27 credit including but not limited to an application for financial
28 assistance for the purchase, acquisition, construction, rehabilitation,
29 repair or maintenance of any real property or part or portion thereof
30 or any agent or employee thereof:

31 (1) To discriminate against any person or group of persons because
32 of the race, creed, color, national origin, ancestry, marital status, sex,
33 affectional or sexual orientation or nationality of such person or group
34 of persons or of the prospective occupants or tenants of such real
35 property or part or portion thereof, in the granting, withholding,
36 extending, modifying or renewing, or in the fixing of the rates, terms,
37 conditions or provisions of any such loan, extension of credit or
38 financial assistance or in the extension of services in connection
39 therewith; or

40 (2) To use any form of application for such loan, extension of
41 credit or financial assistance or to make record or inquiry in
42 connection with applications for any such loan, extension of credit or
43 financial assistance which expresses, directly or indirectly, any
44 limitation, specification or discrimination as to race, creed, color,
45 national origin, ancestry, marital status, sex, affectional or sexual
46 orientation or nationality or any intent to make any such limitation,

1 specification or discrimination; unless otherwise required by law or
2 regulation to retain or use such information; or

3 (3) To discriminate on the basis of familial status in any manner
4 described in paragraph (1) or (2) of this subsection with respect to any
5 real property.

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

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

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

38 m. For any person to:

39 (1) Grant or accept any letter of credit or other document which
40 evidences the transfer of funds or credit, or enter into any contract for
41 the exchange of goods or services, where the letter of credit, contract,
42 or other document contains any provisions requiring any person to
43 discriminate against or to certify that he, she or it has not dealt with
44 any other person on the basis of the race, creed, color, national origin,
45 ancestry, age, sex, affectional or sexual orientation, marital status,
46 liability for service in the Armed Forces of the United States, or

1 nationality of such other person or of such other person's spouse,
2 partners, members, stockholders, directors, officers, managers,
3 superintendents, agents, employees, business associates, suppliers, or
4 customers.

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

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

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

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

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

34 (cf: P.L.1996, c.126, s.5)

35

36 2. This act shall take effect immediately.

37

38

39

40

41 Prohibits clubs from discriminating against members in certain cases.

[Passed Both Houses]

[Third Reprint]

ASSEMBLY, No. 432

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KELLY, Assemblywoman WRIGHT,
Assemblyman Doria, Assemblywoman Turner, Assemblymen
Dalton, Cohen, Impreveduto, Jones, Assemblywoman
Vandervalk, Assemblyman Zisa, Assemblywomen Gill,
Quigley, Weinberg, Crecco, Assemblymen O'Toole,
DiGaetano, Senators Singer, Bark, Cafiero and Baer

1 AN ACT concerning discrimination and amending P.L.1945, c.169.

2

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

5

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

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

10 a. For an employer, because of the race, creed, color, national
11 origin, ancestry, age, marital status, affectional or sexual orientation,
12 ³genetic information,³ sex or atypical hereditary cellular or blood trait
13 of any individual, or because of the liability for service in the Armed
14 Forces of the United States or the nationality of any individual, ³or
15 because of the refusal to submit to a genetic test or make available the
16 results of a genetic test to an employer.³ to refuse to hire or employ
17 or to bar or to discharge or require to retire, unless justified by lawful
18 considerations other than age, from employment such individual or to
19 discriminate against such individual in compensation or in terms,
20 conditions or privileges of employment; provided, however, it shall not
21 be an unlawful employment practice to refuse to accept for
22 employment an applicant who has received a notice of induction or

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJU committee amendments adopted September 19, 1996.

² Assembly floor amendments adopted October 21, 1996.

³ Senate SJU committee amendments adopted May 8, 1997.

1 orders to report for active duty in the armed forces; provided further
2 that nothing herein contained shall be construed to bar an employer
3 from refusing to accept for employment any person on the basis of sex
4 in those certain circumstances where sex is a bona fide occupational
5 qualification, reasonably necessary to the normal operation of the
6 particular business or enterprise; provided further that nothing herein
7 contained shall be construed to bar an employer from refusing to
8 accept for employment or to promote any person over 70 years of age;
9 provided further that it shall not be an unlawful employment practice
10 for a club exclusively social or fraternal to use club membership as a
11 uniform qualification for employment, or for a religious association or
12 organization to utilize religious affiliation as a uniform qualification in
13 the employment of clergy, religious teachers or other employees
14 engaged in the religious activities of the association or organization,
15 or in following the tenets of its religion in establishing and utilizing
16 criteria for employment of an employee; provided further, that it shall
17 not be an unlawful employment practice to require the retirement of
18 any employee who, for the two-year period immediately before
19 retirement, is employed in a bona fide executive or a high
20 policy-making position, if that employee is entitled to an immediate
21 non-forfeitable annual retirement benefit from a pension, profit
22 sharing, savings or deferred retirement plan, or any combination of
23 those plans, of the employer of that employee which equals in the
24 aggregate at least \$27,000.00; and provided further that an employer
25 may restrict employment to citizens of the United States where such
26 restriction is required by federal law or is otherwise necessary to
27 protect the national interest.

28 For the purposes of this subsection, a "bona fide executive" is a top
29 level employee who exercises substantial executive authority over a
30 significant number of employees and a large volume of business. A
31 "high policy-making position" is a position in which a person plays a
32 significant role in developing policy and in recommending the
33 implementation thereof.

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

1 particular apprentice or other training program.

2 c. For any employer or employment agency to print or circulate or
3 cause to be printed or circulated any statement, advertisement or
4 publication, or to use any form of application for employment, or to
5 make an inquiry in connection with prospective employment, which
6 expresses, directly or indirectly, any limitation, specification or
7 discrimination as to race, creed, color, national origin, ancestry, age,
8 marital status, affectional or sexual orientation or sex or liability of any
9 applicant for employment for service in the Armed Forces of the
10 United States, or any intent to make any such limitation, specification
11 or discrimination, unless based upon a bona fide occupational
12 qualification.

13 d. For any person to take reprisals against any person because that
14 person has opposed any practices or acts forbidden under this act or
15 because that person has filed a complaint, testified or assisted in any
16 proceeding under this act or to coerce, intimidate, threaten or interfere
17 with any person in the exercise or enjoyment of, or on account of that
18 person having aided or encouraged any other person in the exercise or
19 enjoyment of, any right granted or protected by this act.

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

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

1 pool, gymnasium, comfort station, dispensary, clinic or hospital, or
2 school or educational institution which is restricted exclusively to
3 individuals of one sex, from refusing, withholding from or denying to
4 any individual of the opposite sex any of the accommodations,
5 advantages, facilities or privileges thereof on the basis of sex; provided
6 further, that the foregoing limitation shall not apply to any restaurant
7 as defined in R.S.33:1-1 or place where alcoholic beverages are
8 served.

9 (2) ¹~~For~~ Notwithstanding the definition of "public
10 ²~~accommodation~~ accommodation" as set forth in subsection l. of
11 section ³~~4~~⁵ of P.L.1945, c.169 (C.10:5-5), for¹ any owner, lessee,
12 proprietor, manager, superintendent, agent, or employee of any private
13 club or association to ~~directly or indirectly refuse, withhold from or~~
14 ~~deny to any individual who has been accepted as a club member and~~
15 ~~has contracted for or is otherwise entitled to full club membership any~~
16 ~~of the accommodations, advantages, facilities or privileges thereof, or~~
17 ~~to discriminate against any~~ ¹~~person~~ ¹member ¹in the furnishing
18 thereof on account of the race, creed, color, national origin, ancestry,
19 marital status, sex, affectional or sexual orientation or nationality of
20 such person.

21 ²In addition to the penalties otherwise provided for a violation of
22 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of
23 subsection f. of this section is the holder of an alcoholic beverage
24 license issued under the provisions of R.S.33:1-12 ³~~that license, for~~
25 ~~a first offense, shall be suspended by]~~ for that private club or
26 association, the matter shall be referred to³ the Director of the
27 Division of Alcoholic ³~~Beverages~~ for a period of not less than 15
28 days or more than 60 days and, for a second offense, shall be revoked
29 by the director and the licensed premises ineligible for any license
30 issued under the provisions of chapter 1 of Title 33 of the Revised
31 Statutes for a period of no less than two years following the date of
32 the revocation. A suspension or revocation authorized under this
33 paragraph shall be effectuated] Beverage Control who shall impose an
34 appropriate penalty³ in accordance with the procedures set forth in
35 R.S.33:1-31.²

36 g. For the owner, lessee, sublessee, assignee or managing agent of,
37 or other person having the right of ownership or possession of or the
38 right to sell, rent, lease, assign, or sublease any real property or part
39 or portion thereof, or any agent or employee of any of these:

40 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
41 to deny to or withhold from any person or group of persons any real
42 property or part or portion thereof because of the race, creed, color,
43 national origin, ancestry, marital status, affectional or sexual
44 orientation, familial status or nationality of such person or group of
45 persons;

46 (2) To discriminate against any person or group of persons

1 because of the race, creed, color, national origin, marital status, sex,
2 affectional or sexual orientation or familial status of such person or
3 group of persons in the terms, conditions or privileges of the sale,
4 rental or lease of any real property or part or portion thereof or in the
5 furnishing of facilities or services in connection therewith; or

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

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

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

45 (2) To discriminate against any person because of his race, creed,
46 color, national origin, ancestry, marital status, familial status, sex or

1 affectional or sexual orientation in the terms, conditions or privileges
2 of the sale, rental, lease, assignment or sublease of any real property
3 or part or portion thereof or in the furnishing of facilities or services
4 in connection therewith; or

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

27 i. For any person, bank, banking organization, mortgage company,
28 insurance company or other financial institution, lender or credit
29 institution to whom application is made for any loan or extension of
30 credit including but not limited to an application for financial
31 assistance for the purchase, acquisition, construction, rehabilitation,
32 repair or maintenance of any real property or part or portion thereof
33 or any agent or employee thereof:

34 (1) To discriminate against any person or group of persons because
35 of the race, creed, color, national origin, ancestry, marital status, sex,
36 affectional or sexual orientation or nationality of such person or group
37 of persons or of the prospective occupants or tenants of such real
38 property or part or portion thereof, in the granting, withholding,
39 extending, modifying or renewing, or in the fixing of the rates, terms,
40 conditions or provisions of any such loan, extension of credit or
41 financial assistance or in the extension of services in connection
42 therewith; or

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

1 limitation, specification or discrimination as to race, creed, color,
2 national origin, ancestry, marital status, sex, affectional or sexual
3 orientation or nationality or any intent to make any such limitation,
4 specification or discrimination; unless otherwise required by law or
5 regulation to retain or use such information; or

6 (3) To discriminate on the basis of familial status in any manner
7 described in paragraph (1) or (2) of this subsection with respect to any
8 real property.

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

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

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

41 m. For any person to:

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

1 any other person on the basis of the race, creed, color, national origin,
2 ancestry, age, sex, affectional or sexual orientation, marital status,
3 liability for service in the Armed Forces of the United States, or
4 nationality of such other person or of such other person's spouse,
5 partners, members, stockholders, directors, officers, managers,
6 superintendents, agents, employees, business associates, suppliers, or
7 customers.

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

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

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

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

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

37 (cf: P.L.1996, c.126, s.5)

38

39 2. This act shall take effect immediately.

40

41

42

43

44 Prohibits clubs from discriminating against members in certain cases.



OFFICE OF THE GOVERNOR NEWS RELEASE

BOX-004
CONTACT: GENE HERMAN
609-777-2600

TRENTON, NJ 08625
RELEASE: FRIDAY,
August 1, 1997

Governor Christie Whitman today signed legislation prohibiting private clubs from discriminating against members on the basis of sex, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, or nationality.

This legislation amends the "Law Against Discrimination" to provide that once an individual has been admitted to a private club, club privileges and benefits may not be withheld from that club member. It is being signed in the wake of reports that some golf clubs are assigning unfavorable tee times for female members, while reserving preferential tee times for its male members. This bill would prohibit this behavior, and any other type of discrimination which is prohibited when carried out by private clubs against its own members.

Private clubs and associations which are licensed to serve alcoholic beverages could have those licenses suspended or revoked if they are found guilty of discriminating against any of their members. All violations will be referred to John Holl, Director of ABC, who will determine penalties on a case-by-case basis.

S-1656/ A-432, was sponsored by Senator Robert Singer (R-Burlington/Monmouth/Ocean) and Assembly Members John Kelly (R-Bergen/Essex/Passaic) and Barbara Wright (R-Mercer/Middlesex).