

[First Reprint]

**SENATE, No. 2995**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

INTRODUCED SEPTEMBER 30, 2013

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblywoman SHAVONDA E. SUMTER**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

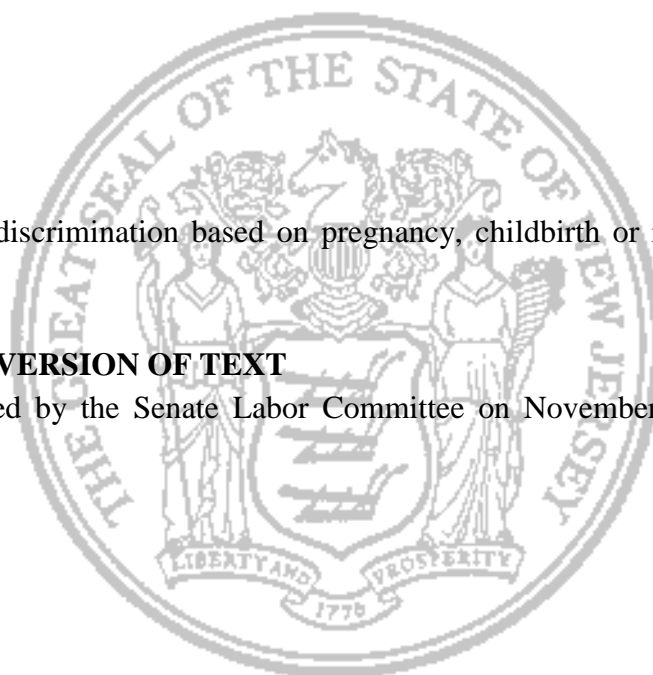
**Senators Beck, Ruiz, Assemblywomen Mosquera, Vainieri Huttle and Jasey**

**SYNOPSIS**

Prohibits discrimination based on pregnancy, childbirth or related medical conditions.

**CURRENT VERSION OF TEXT**

As reported by the Senate Labor Committee on November 7, 2013, with amendments.



**(Sponsorship Updated As Of: 1/7/2014)**

1 AN ACT concerning discrimination based on pregnancy, childbirth  
2 or related medical conditions and amending <sup>1</sup>and supplementing<sup>1</sup>  
3 P.L.1945, c.169.

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

7  
8 <sup>1</sup>1. (New section) The Legislature finds and declares:

9 a. That pregnant women are vulnerable to discrimination in the  
10 workplace in New Jersey, as indicated in reports that women who  
11 request an accommodation that will allow them to maintain a  
12 healthy pregnancy, or who need a reasonable accommodation while  
13 recovering from childbirth, are being removed from their positions,  
14 placed on unpaid leave, or fired;

15 b. It is the intent of the Legislature to combat this form of  
16 discrimination by requiring employers to provide reasonable  
17 accommodations to pregnant women and those who suffer medical  
18 conditions related to pregnancy and childbirth, such as bathroom  
19 breaks, breaks for increased water intake, periodic rest, assistance  
20 with manual labor, job restructuring or modified work schedules,  
21 and temporary transfers to less strenuous or hazardous work; and

22 c. It is not the intent of the Legislature to require such  
23 accommodations if their provision would cause an undue hardship  
24 in the conduct of an employer's business.<sup>1</sup>

25  
26 **[1.]** 2.<sup>1</sup> Section 11 of P.L.1945, c.169 (C.10:5-12) is amended  
27 to read as follows:

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

30 a. For an employer, because of the race, creed, color, national  
31 origin, ancestry, age, marital status, civil union status, domestic  
32 partnership status, affectional or sexual orientation, genetic  
33 information, pregnancy, sex, gender identity or expression,  
34 disability or atypical hereditary cellular or blood trait of any  
35 individual, or because of the liability for service in the Armed  
36 Forces of the United States or the nationality of any individual, or  
37 because of the refusal to submit to a genetic test or make available  
38 the results of a genetic test to an employer, to refuse to hire or  
39 employ or to bar or to discharge or require to retire, unless justified  
40 by lawful considerations other than age, from employment such  
41 individual or to discriminate against such individual in  
42 compensation or in terms, conditions or privileges of employment;  
43 provided, however, it shall not be an unlawful employment practice  
44 to refuse to accept for employment an applicant who has received a

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SLA committee amendments adopted November 7, 2013.

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

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

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

40 b. For a labor organization, because of the race, creed, color,  
41 national origin, ancestry, age, marital status, civil union status,  
42 domestic partnership status, affectional or sexual orientation,  
43 gender identity or expression, disability, pregnancy, or sex of any  
44 individual, or because of the liability for service in the Armed  
45 Forces of the United States or nationality of any individual, to  
46 exclude or to expel from its membership such individual or to  
47 discriminate in any way against any of its members, against any  
48 applicant for, or individual included in, any apprentice or other

1 training program or against any employer or any individual  
2 employed by an employer; provided, however, that nothing herein  
3 contained shall be construed to bar a labor organization from  
4 excluding from its apprentice or other training programs any person  
5 on the basis of sex in those certain circumstances where sex is a  
6 bona fide occupational qualification reasonably necessary to the  
7 normal operation of the particular apprentice or other training  
8 program.

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

22 d. For any person to take reprisals against any person because  
23 that person has opposed any practices or acts forbidden under this  
24 act or because that person has filed a complaint, testified or assisted  
25 in any proceeding under this act or to coerce, intimidate, threaten or  
26 interfere with any person in the exercise or enjoyment of, or on  
27 account of that person having aided or encouraged any other person  
28 in the exercise or enjoyment of, any right granted or protected by  
29 this act.

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

33 f. (1) For any owner, lessee, proprietor, manager,  
34 superintendent, agent, or employee of any place of public  
35 accommodation directly or indirectly to refuse, withhold from or  
36 deny to any person any of the accommodations, advantages,  
37 facilities or privileges thereof, or to discriminate against any person  
38 in the furnishing thereof, or directly or indirectly to publish,  
39 circulate, issue, display, post or mail any written or printed  
40 communication, notice, or advertisement to the effect that any of  
41 the accommodations, advantages, facilities, or privileges of any  
42 such place will be refused, withheld from, or denied to any person  
43 on account of the race, creed, color, national origin, ancestry,  
44 marital status, civil union status, domestic partnership status,  
45 pregnancy, sex, gender identity or expression, affectional or sexual  
46 orientation, disability or nationality of such person, or that the  
47 patronage or custom thereof of any person of any particular race,  
48 creed, color, national origin, ancestry, marital status, civil union

1 status, domestic partnership status, pregnancy status, sex, gender  
2 identity or expression, affectional or sexual orientation, disability or  
3 nationality is unwelcome, objectionable or not acceptable, desired  
4 or solicited, and the production of any such written or printed  
5 communication, notice or advertisement, purporting to relate to any  
6 such place and to be made by any owner, lessee, proprietor,  
7 superintendent or manager thereof, shall be presumptive evidence in  
8 any action that the same was authorized by such person; provided,  
9 however, that nothing contained herein shall be construed to bar any  
10 place of public accommodation which is in its nature reasonably  
11 restricted exclusively to individuals of one sex, and which shall  
12 include but not be limited to any summer camp, day camp, or resort  
13 camp, bathhouse, dressing room, swimming pool, gymnasium,  
14 comfort station, dispensary, clinic or hospital, or school or  
15 educational institution which is restricted exclusively to individuals  
16 of one sex, provided individuals shall be admitted based on their  
17 gender identity or expression, from refusing, withholding from or  
18 denying to any individual of the opposite sex any of the  
19 accommodations, advantages, facilities or privileges thereof on the  
20 basis of sex; provided further, that the foregoing limitation shall not  
21 apply to any restaurant as defined in R.S.33:1-1 or place where  
22 alcoholic beverages are served.

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

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

44 g. For any person, including but not limited to, any owner,  
45 lessee, sublessee, assignee or managing agent of, or other person  
46 having the right of ownership or possession of or the right to sell,  
47 rent, lease, assign, or sublease any real property or part or portion  
48 thereof, or any agent or employee of any of these:

1 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
2 to deny to or withhold from any person or group of persons any real  
3 property or part or portion thereof because of race, creed, color,  
4 national origin, ancestry, marital status, civil union status, domestic  
5 partnership status, pregnancy, sex, gender identity or expression,  
6 affectional or sexual orientation, familial status, disability,  
7 nationality, or source of lawful income used for rental or mortgage  
8 payments;

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

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

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

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

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

10 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
11 sale, rental, lease, assignment, or sublease any real property or part  
12 or portion thereof to any person or group of persons or to refuse to  
13 negotiate for the sale, rental, lease, assignment, or sublease of any  
14 real property or part or portion thereof to any person or group of  
15 persons because of race, creed, color, national origin, ancestry,  
16 marital status, civil union status, domestic partnership status,  
17 familial status, pregnancy, sex, gender identity or expression,  
18 affectional or sexual orientation, disability, nationality, or source of  
19 lawful income used for rental or mortgage payments, or to represent  
20 that any real property or portion thereof is not available for  
21 inspection, sale, rental, lease, assignment, or sublease when in fact  
22 it is so available, or otherwise to deny or withhold any real property  
23 or any part or portion of facilities thereof to or from any person or  
24 group of persons because of race, creed, color, national origin,  
25 ancestry, marital status, civil union status, domestic partnership  
26 status, familial status, pregnancy, sex, gender identity or expression,  
27 affectional or sexual orientation, disability or nationality;

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

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

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

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

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

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

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

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



1 national origin, ancestry, marital status, civil union status, domestic  
2 partnership status, pregnancy, sex, gender identity or expression,  
3 affectional or sexual orientation, disability, familial status or  
4 nationality or any intent to make any such limitation, specification  
5 or discrimination; unless otherwise required by law or regulation to  
6 retain or use such information;

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

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

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

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

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

41 l. For any person to refuse to buy from, sell to, lease from or  
42 to, license, contract with, or trade with, provide goods, services or  
43 information to, or otherwise do business with any other person on  
44 the basis of the race, creed, color, national origin, ancestry, age,  
45 pregnancy, sex, gender identity or expression, affectional or sexual  
46 orientation, marital status, civil union status, domestic partnership  
47 status, liability for service in the Armed Forces of the United States,  
48 disability, nationality, or source of lawful income used for rental or

1 mortgage payments of such other person or of such other person's  
2 spouse, partners, members, stockholders, directors, officers,  
3 managers, superintendents, agents, employees, business associates,  
4 suppliers, or customers. This subsection shall not prohibit refusals  
5 or other actions (1) pertaining to employee-employer collective  
6 bargaining, labor disputes, or unfair labor practices, or (2) made or  
7 taken in connection with a protest of unlawful discrimination or  
8 unlawful employment practices.

9 m. For any person to:

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

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

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

37 n. For any person to aid, abet, incite, compel, coerce, or induce  
38 the doing of any act forbidden by subsections l. and m. of section  
39 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to  
40 do so. Such prohibited conduct shall include, but not be limited to:

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

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

1 because that person has not done or refuses to do any such act or  
2 any act prohibited by this subsection; provided that this subsection  
3 shall 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 o. For any multiple listing service, real estate brokers'  
8 organization or other service, organization or facility related to the  
9 business of selling or renting dwellings to deny any person access  
10 to or membership or participation in such organization, or to  
11 discriminate against such person in the terms or conditions of such  
12 access, membership, or participation, on account of race, creed,  
13 color, national origin, ancestry, age, marital status, civil union  
14 status, domestic partnership status, familial status, pregnancy, sex,  
15 gender identity or expression, affectional or sexual orientation,  
16 disability or nationality.

17 p. Nothing in the provisions of this section shall affect the  
18 ability of an employer to require employees to adhere to reasonable  
19 workplace appearance, grooming and dress standards not precluded  
20 by other provisions of State or federal law, except that an employer  
21 shall allow an employee to appear, groom and dress consistent with  
22 the employee's gender identity or expression.

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

41 (a) The number of the hours worked by the employee which are  
42 counted towards the accruing of seniority, pension or other benefits;  
43 or

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

46 (2) For an employer to refuse to permit an employee to utilize  
47 leave, as provided for in this subsection q., which is solely used to  
48 accommodate the employee's sincerely held religious observance or

1 practice. Except where it would cause an employer to incur an  
2 undue hardship, no person shall be required to remain at his place  
3 of employment during any day or days or portion thereof that, as a  
4 requirement of his religion, he observes as his Sabbath or other holy  
5 day, including a reasonable time prior and subsequent thereto for  
6 travel between his place of employment and his home; provided that  
7 any such absence from work shall, wherever practicable in the  
8 reasonable judgment of the employer, be made up by an equivalent  
9 amount of time and work at some other mutually convenient time,  
10 or shall be charged against any leave with pay ordinarily granted,  
11 other than sick leave, and any such absence not so made up or  
12 charged, may be treated by the employer of that person as leave  
13 taken without pay.

14 (3) (a) For purposes of this subsection q., "undue hardship"  
15 means an accommodation requiring unreasonable expense or  
16 difficulty, unreasonable interference with the safe or efficient  
17 operation of the workplace or a violation of a bona fide seniority  
18 system or a violation of any provision of a bona fide collective  
19 bargaining agreement.

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

22 (i) The identifiable cost of the accommodation, including the  
23 costs of loss of productivity and of retaining or hiring employees or  
24 transferring employees from one facility to another, in relation to  
25 the size and operating cost of the employer.

26 (ii) The number of individuals who will need the particular  
27 accommodation for a sincerely held religious observance or  
28 practice.

29 (iii) For an employer with multiple facilities, the degree to which  
30 the geographic separateness or administrative or fiscal relationship  
31 of the facilities will make the accommodation more difficult or  
32 expensive.

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

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

41 (ii) This subsection q. shall not apply where the uniform  
42 application of terms and conditions of attendance to employees is  
43 essential to prevent undue hardship to the employer. The burden of  
44 proof regarding the applicability of this subparagraph (d) shall be  
45 upon the employer.

46 r. <sup>1</sup>For any employer to take reprisals against any employee for  
47 requesting from any other employee or former employee of the  
48 employer information regarding the job title, occupational category,

1 and rate of compensation, including benefits, of any employee or  
2 former employee of the employer, or the gender, race, ethnicity,  
3 military status, or national origin of any employee or former  
4 employee of the employer, regardless of whether the request was  
5 responded to, if the purpose of the request for the information was  
6 to assist in investigating the possibility of the occurrence of, or in  
7 taking of legal action regarding, potential discriminatory treatment  
8 concerning pay, compensation, bonuses, other compensation, or  
9 benefits. Nothing in this subsection shall be construed to require an  
10 employee to disclose such information about the employee herself  
11 to any other employee or former employee of the employer or to  
12 any authorized representative of the other employee or former  
13 employee.

14 s.<sup>1</sup> For an employer to treat, for employment-related purposes, a  
15 woman <sup>1</sup>employee that the employer knows, or should know, is<sup>1</sup>  
16 affected by pregnancy in a manner less favorable than the treatment  
17 of other persons not affected by pregnancy but similar in their  
18 ability or inability to work. <sup>1</sup>**[An]** In addition, an<sup>1</sup> employer of an  
19 employee who is a woman affected by pregnancy shall make  
20 available to the employee reasonable accommodation <sup>1</sup>in the  
21 workplace, such as bathroom breaks, breaks for increased water  
22 intake, periodic rest, assistance with manual labor, job restructuring  
23 or modified work schedules, and temporary transfers to less  
24 strenuous or hazardous work,<sup>1</sup> for needs related to the pregnancy  
25 when the employee, <sup>1</sup>**[with]** based on<sup>1</sup> the advice of her physician,  
26 requests the accommodation, <sup>1</sup>**[and]** unless the employer can  
27 demonstrate that providing the accommodation would be an undue  
28 hardship on the business operations of the employer. The  
29 employer<sup>1</sup> shall not in any way penalize the employee in terms,  
30 conditions or privileges of employment for <sup>1</sup>requesting or<sup>1</sup> using the  
31 accommodation <sup>1</sup>**[or, whenever accommodation is not feasible, for**  
32 taking an amount of time away from work as required by the  
33 pregnancy, as certified by the physician of the employee taking into  
34 account the condition of the employee and the job requirements<sup>1</sup>.  
35 Workplace accommodation provided pursuant to this subsection and  
36 paid or unpaid leave provided to an employee affected by  
37 pregnancy shall not be provided in a manner less favorable than  
38 accommodations or leave provided to other employees not affected  
39 by pregnancy but similar in their ability or inability to work. This  
40 subsection shall not be construed as otherwise increasing or  
41 decreasing any employee's rights under law to paid or unpaid leave  
42 in connection with pregnancy<sup>1</sup>.

43 For the purposes of this section "pregnancy" means pregnancy,  
44 childbirth, or medical conditions related to pregnancy or childbirth<sup>1</sup>,  
45 including recovery from childbirth.

46 For the purposes of this subsection, in determining whether an  
47 accommodation would impose undue hardship on the operation of

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

11 (cf: P.L.2013, c.154)

12

13 <sup>1</sup>**[2.] 3.**<sup>1</sup> This act shall take effect immediately.