



## New Jersey Department of Community Affairs Division of Codes and Standards Landlord-Tenant Information Service



Jon S. Corzine  
Governor

Charles A. Richman  
Acting Commissioner

### **DISCRIMINATION IN HOUSING** **(excerpts from the “Law Against Discrimination”)** **N.J.S.A. 10:5-4 et seq., 10:5-9 et seq. and 10:5-12 et seq.**

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#### **10:5-4 Obtaining employment, accommodations and privileges without discrimination; civil right.**

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

L.1945,c.169,s.4; amended 1949, c.11, s.2; 1957, c.66, s.1; 1961, c.106, s.1; 1962, c.37, ss.3,9; 1970, c.80, s.9; 1991, c.519, s.2; 1992, c.146, s.2; 2002, c.82, s.1; 2003, c.180, s.4; 2006, c.100, s.3.

#### **10:5-4.1. Construction of act**

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

L.1972,c.114,s.2; amended 1978,c.137,s.2; 1992,c.146,s.3; 2003, c.180.

#### **10:5-9.1 Enforcement of laws against discrimination in public housing and real property.**

1. The Division on Civil Rights in the Department of Law and Public Safety shall enforce the laws of this State against discrimination in housing built with, or leased with the assistance of, public funds or public assistance, pursuant to any law, and in real property, as defined in the law hereby supplemented, because of race, religious principles, color, national origin, ancestry, marital status, affectional or sexual orientation, familial status, disability,

nationality, sex, gender identity or expression or source of lawful income used for rental or mortgage payments. The said laws shall be so enforced in the manner prescribed in the act to which this act is a supplement.

L.1954,c.198,s.1; amended 1961, c.106, s.5; 1963, c.40, s.18; 1970, c.80, s.12; 1991, c.519, s.6; 1992, c.146, s.7; 2002, c.82, s.2; 2003, c.180, s.9; 2006, c.100, s.7.

### **10:5-9.2 Division on Civil Rights qualified as "certified agency."**

13. The provisions of this amendatory and supplementary act, P.L.1992, c.146 (C.10:5-12.4 et al.), and P.L.2003, c.180, are intended to permit the Division on Civil Rights in the Department of Law and Public Safety to qualify as a "certified agency" within the meaning of the Federal Fair Housing Amendments Act, Pub.L. 100-430 (42 U.S.C. s.3610 (f)), and shall be construed as consistent with that purpose. Nothing in P.L.1992, c.146 (C.10:5-12.4 et al.) and P.L.2003, c.180, shall be construed to permit conduct prohibited by the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), prior to the effective date of P.L.2003, c.180.

L.1992,c.146,s.13; amended 2003, c.180, s.10.

### **10:5-12 Unlawful employment practices, discrimination.**

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, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, sex, gender identity or expression, disability 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, or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer, 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.

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

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, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, disability 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, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, disability, nationality 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, civil union status, domestic partnership status, sex, gender

identity or expression, affectional or sexual orientation, disability 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, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability 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, provided individuals shall be admitted based on their gender identity or expression, 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) Notwithstanding the definition of "public accommodation" as set forth in subsection l. of section 5 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 member in the furnishing thereof on account of the race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability or nationality of such person.

In 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 for that private club or association, the matter shall be referred to the Director of the Division of Alcoholic Beverage Control who shall impose an appropriate penalty in accordance with the procedures set forth in R.S.33:1-31.

g. For any person, including but not limited to, any 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 race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, nationality, or source of lawful income used for rental or mortgage payments;

(2) To discriminate against any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, nationality or source of lawful income used for rental or mortgage payments 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;

(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, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, nationality, or source of lawful income used for rental or mortgage payments, 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, provided individuals shall be qualified based on their gender identity or expression;

(4) 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 source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

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

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 race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments, 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 race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability or nationality;

(2) To discriminate against any person because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex,

gender identity or expression, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments 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;

(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, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments 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, provided individuals shall be qualified based on their gender identity or expression;

(4) 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 source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

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

i. For any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution involved in the making or purchasing of any loan or extension of credit, for whatever purpose, whether secured by residential real estate or not, including but not limited to 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 race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability, familial status or nationality, in the granting, withholding, extending, modifying, renewing, or purchasing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or purchase thereof or in the extension of services in connection therewith;

(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, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability, familial status 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;

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

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

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

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, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments 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, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, liability for service in the Armed Forces of the United States, disability, nationality, or source of lawful income used for rental or mortgage payments 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, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, disability, 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; 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; provided that this subsection 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.

o. For any multiple listing service, real estate brokers' organization or other service, organization or facility related to the business of selling or renting dwellings to deny any person access to or membership or participation in such organization, or to discriminate against such person in the terms or conditions of such access, membership, or participation, on account of race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability or nationality.

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

### **10:5-12.1. Reinstatement, back pay**

Notwithstanding any provision of law to the contrary, relief for having been required to retire in violation of the provisions of section 11 of P.L. 1945, c. 169 (C. 10:5-12), shall be available to the person aggrieved by that violation solely through the procedure initiated by filing a complaint with the Attorney General under the provisions of P.L. 1945, c. 169 (C. 10:5-1 et seq.).

Notwithstanding any provision to the contrary of section 16 of P.L. 1945, c. 169 (C. 10:5-17) or any other law, relief ordered for or granted to a person in connection with his being required to retire in violation of the provisions of section 11 of P.L. 1945, c. 169 (C. 10:5-12) shall be limited to his reinstatement with back pay and interest.

L. 1985, c. 73, s. 5, eff. March 11, 1985.

### **10:5-12.2. Unlawful discrimination against Medicaid applicants, recipients of public assistance**

It shall be an unlawful discrimination for any skilled nursing or intermediate care facility which is a Medicaid provider pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and whose Medicaid occupancy level is less than the Statewide occupancy level, to deny admission to a qualified Medicaid applicant or a recipient of public assistance under P.L.1947, c.156 (C.44:8-107 et seq.) when a nursing home bed becomes available; except that this requirement shall not be construed to apply to the transfer of a resident from a residential unit to a nursing care unit within a facility, as defined by regulation, or prohibit a life care community, as defined by regulation, from contracting with its own residents for prior rights to beds in the nursing care unit of the community. The Commissioner of Human Services shall modify this requirement based on the licensed bed capacity and the financial condition of a facility but in no case shall the Medicaid occupancy level of that facility be less than 35%. The commissioner shall by September 1 of each year provide the Institutions, Health and Welfare Committee of the Senate, the Corrections, Health and Human Services Committee of the General Assembly, and the Governor with a report stating in specific detail the adverse financial condition of each facility exempted from this requirement. The criteria used by the commissioner to modify this requirement shall be contained in regulations which he shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and a list of all skilled nursing or intermediate care facilities granted a modification by the commissioner shall be published in the New Jersey Register within one month of the commissioner's granting of the modification. Nothing in this section shall be construed to prohibit a religiously affiliated skilled nursing or intermediate care facility from utilizing religious affiliation as a uniform qualification for admission.

For the purpose of this subsection and section 3 of this amendatory and supplementary act, "Statewide occupancy level" means 45% of the total number of licensed beds in a skilled nursing or intermediate care facility for the first year following the effective date of this amendatory and supplementary act. For each year thereafter, the Commissioner of Human Services shall annually determine the Statewide occupancy level based on the commissioner's projection of the need for nursing facility bed space for qualified Medicaid applicants for that year, but the level shall not be less than 45%. Upon making the determination of what the Statewide occupancy level shall be for the next year, the commissioner shall promptly notify the members of the Senate Institutions, Health and Welfare Committee and General Assembly Corrections, Health and Human Services Committee, in writing, about the proposed level and the commissioner's rationale for so determining the level. After notifying the committee members, the commissioner

shall adopt the Statewide occupancy level by regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

For the purpose of this section and section 3 of this amendatory and supplementary act, "Medicaid occupancy level" means the average number of Medicaid recipients and recipients of public assistance under P.L.1947, c.156 (C.44:8-107 et seq.) residing in a skilled nursing or intermediate care facility divided by the total number of licensed beds in the facility during that month. The Department of Human Services shall compile this information on a monthly basis and it shall be made available to the public upon request. This information shall be provided to the Division on Civil Rights on a monthly basis.

L.1985,c.303; amended 1987,c.367.

### **10:5-12.3. Report of admission denial**

A person or agency having knowledge that a skilled nursing or intermediate care facility whose Medicaid occupancy level is less than the Statewide occupancy level has denied admission to a qualified Medicaid applicant shall promptly report this information to the Division on Civil Rights of the Department of Law and Public Safety.

L. 1985, c. 303, s. 3

### **10:5-12.4 Failure to use barrier free housing standards, unlawful discrimination.**

11. A failure to design and construct any multi-family dwelling of four units or more in accordance with barrier free standards promulgated by the Commissioner of Community Affairs pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123) shall be an unlawful discrimination. The Commissioner of Community Affairs shall ensure that standards established meet or exceed the standards established under the federal "Fair Housing Amendments Act of 1988," Pub. L.100-430. Whenever the Attorney General receives a complaint alleging an unlawful discrimination pursuant to this section, the Attorney General shall refer the complaint to the Commissioner of Community Affairs for a determination and report as to whether there is a violation of such standards. Following receipt of the report, a complaint alleging an unlawful discrimination pursuant to this section shall be investigated and prosecuted in accordance with the provisions of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). Nothing in this section shall be construed to limit any enforcement authority of the Commissioner of Community Affairs or the Attorney General otherwise provided by law. Nothing in the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and P.L.1971, c.269 (C.52:32-4 et seq.) shall be deemed to limit the powers of the Attorney General under this act. The Attorney General and the Commissioner of Community Affairs shall adopt regulations to effectuate the purposes of this section.

L.1992,c.146,s.11; amended 2003, c.72, s.1.

### **10:5-12.5. Regulation of land use, housing, unlawful discrimination**

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

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

L.1992,c.146,s.12; amended 2003, c.180, s.13; 2006, c.100, s.10.