

1 A bill to be entitled
2 An act relating to prohibited discrimination; creating
3 the "Florida Competitive Workforce Act"; amending s.
4 509.092, F.S.; adding sexual orientation and gender
5 identity as impermissible grounds for discrimination
6 in public lodging establishments and public food
7 service establishments; providing an exception for
8 constitutionally protected free exercise of religion;
9 amending s. 760.01, F.S.; revising the purposes of the
10 Florida Civil Rights Act of 1992 to include sexual
11 orientation and gender identity; reordering and
12 amending s. 760.02, F.S.; defining the terms "gender
13 identity" and "sexual orientation"; amending s.
14 760.05, F.S.; revising the functions of the Florida
15 Commission on Human Relations, to conform; amending s.
16 760.07, F.S.; revising provisions regarding remedies
17 for unlawful discrimination to include discrimination
18 based on sexual orientation and gender identity, to
19 conform; amending s. 760.08, F.S.; adding sexual
20 orientation and gender identity as impermissible
21 grounds for discrimination in places of public
22 accommodation; amending s. 760.10, F.S.; adding sexual
23 orientation and gender identity as impermissible
24 grounds for discrimination with respect to specified
25 unlawful employment practices; providing an exception

26 | for constitutionally protected free exercise of
27 | religion; amending s. 760.22, F.S.; defining the terms
28 | "gender identity" and "sexual orientation" for
29 | purposes of the Fair Housing Act; amending ss. 760.23,
30 | 760.24, 760.25, and 760.26, F.S.; adding sexual
31 | orientation and gender identity as impermissible
32 | grounds for discrimination with respect to the sale or
33 | rental of housing, provision of brokerage services,
34 | financing of housing or in residential real estate
35 | transactions, and land use decisions and in permitting
36 | of development, respectively; amending s. 760.29,
37 | F.S.; revising an exemption from the Fair Housing Act
38 | regarding the appraisal of real property, to conform;
39 | amending s. 760.60, F.S.; adding sexual orientation
40 | and gender identity as impermissible grounds for
41 | discrimination with respect to practices of certain
42 | clubs; amending s. 419.001, F.S.; conforming a cross-
43 | reference; providing an effective date.

44 |
45 | Be It Enacted by the Legislature of the State of Florida:

46 |
47 | Section 1. This act may be cited as the "Florida
48 | Competitive Workforce Act."

49 | Section 2. Section 509.092, Florida Statutes, is amended
50 | to read:

51 509.092 Public lodging establishments and public food
52 service establishments; rights as private enterprises.—

53 (1) Public lodging establishments and public food service
54 establishments are private enterprises, and the operator has the
55 right to refuse accommodations or service to any person who is
56 objectionable or undesirable to the operator, but such refusal
57 may not be based upon race, creed, color, sex, pregnancy,
58 physical disability, sexual orientation, gender identity, or
59 national origin.

60 (2) A person aggrieved by a violation of this section or a
61 violation of a rule adopted under this section has a right of
62 action pursuant to s. 760.11.

63 (3) This section does not limit the free exercise of
64 religion guaranteed by the United States Constitution and the
65 State Constitution.

66 Section 3. Subsection (1) of section 760.01, Florida
67 Statutes, is republished, and subsection (2) of that section is
68 amended, to read:

69 760.01 Purposes; construction; title.—

70 (1) Sections 760.01-760.11 and 509.092 shall be cited as
71 the "Florida Civil Rights Act of 1992."

72 (2) The general purposes of the Florida Civil Rights Act
73 of 1992 are to secure for all individuals within the state
74 freedom from discrimination because of race, color, religion,
75 sex, pregnancy, national origin, age, sexual orientation, gender

76 | identity, handicap, or marital status and thereby to protect
77 | their interest in personal dignity, to make available to the
78 | state their full productive capacities, to secure the state
79 | against domestic strife and unrest, to preserve the public
80 | safety, health, and general welfare, and to promote the
81 | interests, rights, and privileges of individuals within the
82 | state.

83 | Section 4. Section 760.02, Florida Statutes, is reordered
84 | and amended to read:

85 | 760.02 Definitions.—For the purposes of ss. 760.01–760.11
86 | and 509.092, the term:

87 | (7)~~(1)~~ "Florida Civil Rights Act of 1992" means ss.
88 | 760.01–760.11 and 509.092.

89 | (2) "Commission" means the Florida Commission on Human
90 | Relations created by s. 760.03.

91 | (3) "Commissioner" or "member" means a member of the
92 | commission.

93 | (4) "Discriminatory practice" means any practice made
94 | unlawful by the Florida Civil Rights Act of 1992.

95 | (10)~~(5)~~ "National origin" includes ancestry.

96 | (11)~~(6)~~ "Person" includes an individual, association,
97 | corporation, joint apprenticeship committee, joint-stock
98 | company, labor union, legal representative, mutual company,
99 | partnership, receiver, trust, trustee in bankruptcy, or
100 | unincorporated organization; any other legal or commercial

101 entity; the state; or any governmental entity or agency.

102 ~~(5)-(7)~~ "Employer" means any person employing 15 or more
103 employees for each working day in each of 20 or more calendar
104 weeks in the current or preceding calendar year, and any agent
105 of such a person.

106 ~~(6)-(8)~~ "Employment agency" means any person regularly
107 undertaking, with or without compensation, to procure employees
108 for an employer or to procure for employees opportunities to
109 work for an employer, and includes an agent of such a person.

110 (8) "Gender identity" means gender-related identity,
111 appearance, or behavior, regardless of whether such gender-
112 related identity, appearance, or behavior is different from that
113 traditionally associated with the person's physiology or
114 assigned sex at birth, and which gender-related identity can be
115 proven by evidence, including, but not limited to:

116 (a) Medical history, care, or treatment of the gender-
117 related identity;

118 (b) Consistent and uniform assertion of the gender-related
119 identity; or

120 (c) Other evidence that the gender-related identity is a
121 sincerely held part of a person's core identity and is not being
122 asserted for an improper purpose.

123 (9) "Labor organization" means any organization which
124 exists for the purpose, in whole or in part, of collective
125 bargaining or of dealing with employers concerning grievances,

126 | terms or conditions of employment, or other mutual aid or
 127 | protection in connection with employment.

128 | (1)~~(10)~~ "Aggrieved person" means any person who files a
 129 | complaint with the Florida Commission on Human Relations
 130 | Commission.

131 | (12)~~(11)~~ "Public accommodations" means places of public
 132 | accommodation, lodgings, facilities principally engaged in
 133 | selling food for consumption on the premises, gasoline stations,
 134 | places of exhibition or entertainment, and other covered
 135 | establishments. Each of the following establishments which
 136 | serves the public is a place of public accommodation within the
 137 | meaning of this section:

138 | (a) Any inn, hotel, motel, or other establishment that
 139 | ~~which~~ provides lodging to transient guests, other than an
 140 | establishment located within a building that ~~which~~ contains not
 141 | more than four rooms for rent or hire and that ~~which~~ is actually
 142 | occupied by the proprietor of such establishment as his or her
 143 | residence.

144 | (b) Any restaurant, cafeteria, lunchroom, lunch counter,
 145 | soda fountain, or other facility principally engaged in selling
 146 | food for consumption on the premises, including, but not limited
 147 | to, any such facility located on the premises of any retail
 148 | establishment, or any gasoline station.

149 | (c) Any motion picture theater, theater, concert hall,
 150 | sports arena, stadium, or other place of exhibition or

151 entertainment.

152 (d) Any establishment that ~~which~~ is physically located
153 within the premises of any establishment otherwise covered by
154 this subsection, or within the premises of which is physically
155 located any such covered establishment, and that ~~which~~ holds
156 itself out as serving patrons of such covered establishment.

157 (13) "Sexual orientation" means an individual's
158 heterosexuality, homosexuality, or bisexuality.

159 Section 5. Section 760.05, Florida Statutes, is amended to
160 read:

161 760.05 Functions of the commission.—The commission shall
162 promote and encourage fair treatment and equal opportunity for
163 all persons regardless of race, color, religion, sex, pregnancy,
164 national origin, age, sexual orientation, gender identity,
165 handicap, or marital status and mutual understanding and respect
166 among all members of society. ~~The commission all economic,~~
167 ~~social, racial, religious, and ethnic groups;~~ and shall endeavor
168 to eliminate discrimination against, and antagonism between,
169 persons on the basis of race, color, religion, sex, pregnancy,
170 national origin, age, sexual orientation, gender identity,
171 handicap, or marital status ~~religious, racial, and ethnic groups~~
172 ~~and their members.~~

173 Section 6. Section 760.07, Florida Statutes, is amended to
174 read:

175 760.07 Remedies for unlawful discrimination.—Any violation

176 of any state law ~~Florida statute~~ making unlawful discrimination
 177 because of race, color, religion, gender, pregnancy, national
 178 origin, age, sexual orientation, gender identity, handicap, or
 179 marital status in the areas of education, employment, housing,
 180 or public accommodations gives rise to a cause of action for all
 181 relief and damages described in s. 760.11(5), unless greater
 182 damages are expressly provided for. If the statute prohibiting
 183 unlawful discrimination provides an administrative remedy, the
 184 action for equitable relief and damages provided for in this
 185 section may be initiated only after the plaintiff has exhausted
 186 his or her administrative remedy. The term "public
 187 accommodations" does not include lodge halls or other similar
 188 facilities of private organizations which are made available for
 189 public use occasionally or periodically. The right to trial by
 190 jury is preserved in any case in which the plaintiff is seeking
 191 actual or punitive damages.

192 Section 7. Section 760.08, Florida Statutes, is amended to
 193 read:

194 760.08 Discrimination in places of public accommodation.—
 195 All persons are entitled to the full and equal enjoyment of the
 196 goods, services, facilities, privileges, advantages, and
 197 accommodations of any place of public accommodation without
 198 discrimination or segregation on the ground of race, color,
 199 national origin, sex, sexual orientation, gender identity,
 200 pregnancy, handicap, familial status, or religion.

201 Section 8. Subsections (1) and (2), paragraphs (a) and (b)
202 of subsection (3), subsections (4), (5), and (6), paragraph (a)
203 of subsection (8), and subsection (9) of section 760.10, Florida
204 Statutes, are amended, and subsection (10) of that section is
205 republished, to read:

206 760.10 Unlawful employment practices.—

207 (1) It is an unlawful employment practice for an employer:

208 (a) To discharge or to fail or refuse to hire any
209 individual, or otherwise to discriminate against any individual
210 with respect to compensation, terms, conditions, or privileges
211 of employment, because of such individual's race, color,
212 religion, sex, pregnancy, national origin, age, sexual
213 orientation, gender identity, handicap, or marital status.

214 (b) To limit, segregate, or classify employees or
215 applicants for employment in any way that ~~which~~ would deprive or
216 tend to deprive any individual of employment opportunities, or
217 adversely affect any individual's status as an employee, because
218 of such individual's race, color, religion, sex, pregnancy,
219 national origin, age, sexual orientation, gender identity,
220 handicap, or marital status.

221 (2) It is an unlawful employment practice for an
222 employment agency to fail or refuse to refer for employment, or
223 otherwise to discriminate against, any individual because of
224 race, color, religion, sex, pregnancy, national origin, age,
225 sexual orientation, gender identity, handicap, or marital status

226 or to classify or refer for employment any individual on the
227 basis of race, color, religion, sex, pregnancy, national origin,
228 age, sexual orientation, gender identity, handicap, or marital
229 status.

230 (3) It is an unlawful employment practice for a labor
231 organization:

232 (a) To exclude or to expel from its membership, or
233 otherwise to discriminate against, any individual because of
234 race, color, religion, sex, pregnancy, national origin, age,
235 sexual orientation, gender identity, handicap, or marital
236 status.

237 (b) To limit, segregate, or classify its membership or
238 applicants for membership, or to classify or fail or refuse to
239 refer for employment any individual, in any way that would
240 deprive or tend to deprive any individual of employment
241 opportunities, or adversely affect any individual's status as an
242 employee or as an applicant for employment, because of such
243 individual's race, color, religion, sex, pregnancy, national
244 origin, age, sexual orientation, gender identity, handicap, or
245 marital status.

246 (4) It is an unlawful employment practice for any
247 employer, labor organization, or joint labor-management
248 committee controlling apprenticeship or other training or
249 retraining, including on-the-job training programs, to
250 discriminate against any individual because of race, color,

251 religion, sex, pregnancy, national origin, age, sexual
252 orientation, gender identity, handicap, or marital status in
253 admission to, or employment in, any program established to
254 provide apprenticeship or other training.

255 (5) Whenever, in order to engage in a profession,
256 occupation, or trade, it is required that a person receive a
257 license, certification, or other credential;~~;~~ become a member or
258 an associate of any club, association, or other organization;~~;~~
259 or pass any examination, it is an unlawful employment practice
260 for any person to discriminate against any other person seeking
261 such license, certification, or other credential;~~;~~ seeking to
262 become a member or associate of such club, association, or other
263 organization;~~;~~ or seeking to take or pass such examination,
264 because of such other person's race, color, religion, sex,
265 pregnancy, national origin, age, sexual orientation, gender
266 identity, handicap, or marital status.

267 (6) It is an unlawful employment practice for an employer,
268 a labor organization, an employment agency, or a joint labor-
269 management committee to print or publish, or cause to be printed
270 or published, any notice or advertisement relating to
271 employment, membership, classification, referral for employment,
272 or apprenticeship or other training which indicates,~~indicating~~
273 any preference, limitation, specification, or discrimination,
274 based on race, color, religion, sex, pregnancy, national origin,
275 age, sexual orientation, gender identity, absence of handicap,

276 or marital status.

277 (8) Notwithstanding any other provision of this section,
278 it is not an unlawful employment practice under ss. 760.01-
279 760.10 for an employer, employment agency, labor organization,
280 or joint labor-management committee to:

281 (a) Take or fail to take any action on the basis of
282 religion, sex, pregnancy, national origin, age, sexual
283 orientation, gender identity, handicap, or marital status in
284 those certain instances in which religion, sex, condition of
285 pregnancy, national origin, age, sexual orientation, gender
286 identity, absence of a particular handicap, or marital status is
287 a bona fide occupational qualification reasonably necessary for
288 the performance of the particular employment to which such
289 action or inaction is related.

290 (9) (a) This section does ~~shall~~ not apply to any religious
291 corporation, association, educational institution, or society
292 that ~~which~~ conditions opportunities in the area of employment or
293 public accommodation to members of that religious corporation,
294 association, educational institution, or society or to persons
295 who subscribe to its tenets or beliefs.

296 (b) This section does ~~shall~~ not prohibit a religious
297 corporation, association, educational institution, or society
298 from giving preference in employment to individuals of a
299 particular religion to perform work connected with the carrying
300 on by such corporations, associations, educational institutions,

301 or societies of its various activities.

302 (c) This section and s. 760.08 do not limit the free
 303 exercise of religion guaranteed by the United States
 304 Constitution and the State Constitution.

305 (10) Each employer, employment agency, and labor
 306 organization shall post and keep posted in conspicuous places
 307 upon its premises a notice provided by the commission setting
 308 forth such information as the commission deems appropriate to
 309 effectuate the purposes of ss. 760.01-760.10.

310 Section 9. Section 760.22, Florida Statutes, is amended to
 311 read:

312 760.22 Definitions.—As used in this part ~~ss. 760.20-~~
 313 ~~760.37~~, the term:

314 (1) "Commission" means the Florida Commission on Human
 315 Relations.

316 (2) "Covered multifamily dwelling" means:

317 (a) A building that ~~which~~ consists of four or more units
 318 and has an elevator; or

319 (b) The ground floor units of a building that ~~which~~
 320 consists of four or more units and does not have an elevator.

321 (3) "Discriminatory housing practice" means an act that is
 322 unlawful under the terms of this part ~~ss. 760.20-760.37~~.

323 (4) "Dwelling" means any building or structure, or portion
 324 thereof, which is occupied as, or designed or intended for
 325 occupancy as, a residence by one or more families, and any

326 vacant land that ~~which~~ is offered for sale or lease for the
327 construction or location on the land of any such building or
328 structure, or portion thereof.

329 (5) "Familial status" is established when an individual
330 who has not attained the age of 18 years is domiciled with:

331 (a) A parent or other person having legal custody of such
332 individual; or

333 (b) A designee of a parent or other person having legal
334 custody, with the written permission of such parent or other
335 person.

336 (6) "Family" includes a single individual.

337 (7) "Gender identity" has the same meaning as provided in
338 s. 760.02.

339 (8)-(7) "Handicap" means:

340 (a) A ~~person has a~~ physical or mental impairment that
341 ~~which~~ substantially limits one or more major life activities for
342 a person who has, or he or she has a record of having, or is
343 regarded as having, such physical or mental impairment; or

344 (b) A ~~person has a~~ developmental disability as defined in
345 s. 393.063.

346 (9)-(8) "Person" includes one or more individuals,
347 corporations, partnerships, associations, labor organizations,
348 legal representatives, mutual companies, joint-stock companies,
349 trusts, unincorporated organizations, trustees, trustees in
350 bankruptcy, receivers, and fiduciaries.

351 (10) "Sexual orientation" has the same meaning as provided
 352 in s. 760.02.

353 ~~(11)-(9)~~ "Substantially equivalent" means an administrative
 354 subdivision of the State of Florida meeting the requirements of
 355 24 C.F.R. part 115, s. 115.6.

356 ~~(12)-(10)~~ "To rent" includes to lease, to sublease, to let,
 357 and otherwise to grant for a consideration the right to occupy
 358 premises not owned by the occupant.

359 Section 10. Subsections (1) through (5) of section 760.23,
 360 Florida Statutes, are amended to read:

361 760.23 Discrimination in the sale or rental of housing and
 362 other prohibited practices.—

363 (1) It is unlawful to refuse to sell or rent after the
 364 making of a bona fide offer, to refuse to negotiate for the sale
 365 or rental of, or otherwise to make unavailable or deny a
 366 dwelling to any person because of race, color, national origin,
 367 sex, sexual orientation, gender identity, handicap, familial
 368 status, or religion.

369 (2) It is unlawful to discriminate against any person in
 370 the terms, conditions, or privileges of sale or rental of a
 371 dwelling, or in the provision of services or facilities in
 372 connection therewith, because of race, color, national origin,
 373 sex, sexual orientation, gender identity, handicap, familial
 374 status, or religion.

375 (3) It is unlawful to make, print, or publish, or cause to

376 | be made, printed, or published, any notice, statement, or
377 | advertisement with respect to the sale or rental of a dwelling
378 | that indicates any preference, limitation, or discrimination
379 | based on race, color, national origin, sex, sexual orientation,
380 | gender identity, handicap, familial status, or religion or an
381 | intention to make any such preference, limitation, or
382 | discrimination.

383 | (4) It is unlawful to represent to any person because of
384 | race, color, national origin, sex, sexual orientation, gender
385 | identity, handicap, familial status, or religion that any
386 | dwelling is not available for inspection, sale, or rental when
387 | such dwelling is in fact so available.

388 | (5) It is unlawful, for profit, to induce or attempt to
389 | induce any person to sell or rent any dwelling by a
390 | representation regarding the entry or prospective entry into the
391 | neighborhood of a person or persons of a particular race, color,
392 | national origin, sex, sexual orientation, gender identity,
393 | handicap, familial status, or religion.

394 | Section 11. Section 760.24, Florida Statutes, is amended
395 | to read:

396 | 760.24 Discrimination in the provision of brokerage
397 | services.—It is unlawful to deny any person access to, or
398 | membership or participation in, any multiple-listing service,
399 | real estate brokers' organization, or other service,
400 | organization, or facility relating to the business of selling or

401 renting dwellings, or to discriminate against him or her in the
402 terms or conditions of such access, membership, or
403 participation, because ~~on account~~ of race, color, national
404 origin, sex, sexual orientation, gender identity, handicap,
405 familial status, or religion.

406 Section 12. Subsection (1) and paragraph (a) of subsection
407 (2) of section 760.25, Florida Statutes, are amended to read:

408 760.25 Discrimination in the financing of housing or in
409 residential real estate transactions.—

410 (1) It is unlawful for any bank, building and loan
411 association, insurance company, or other corporation,
412 association, firm, or enterprise the business of which consists
413 in whole or in part of the making of commercial real estate
414 loans to deny a loan or other financial assistance to a person
415 applying for the loan for the purpose of purchasing,
416 constructing, improving, repairing, or maintaining a dwelling,
417 or to discriminate against him or her in the fixing of the
418 amount, interest rate, duration, or other term or condition of
419 such loan or other financial assistance, because of the race,
420 color, national origin, sex, sexual orientation, gender
421 identity, handicap, familial status, or religion of such person
422 or of any person associated with him or her in connection with
423 such loan or other financial assistance or the purposes of such
424 loan or other financial assistance, or because of the race,
425 color, national origin, sex, sexual orientation, gender

426 | identity, handicap, familial status, or religion of the present
 427 | or prospective owners, lessees, tenants, or occupants of the
 428 | dwelling or dwellings in relation to which such loan or other
 429 | financial assistance is to be made or given.

430 | (2) (a) It is unlawful for any person or entity whose
 431 | business includes engaging in residential real estate
 432 | transactions to discriminate against any person in making
 433 | available such a transaction, or in the terms or conditions of
 434 | such a transaction, because of race, color, national origin,
 435 | sex, sexual orientation, gender identity, handicap, familial
 436 | status, or religion.

437 | Section 13. Section 760.26, Florida Statutes, is amended
 438 | to read:

439 | 760.26 Prohibited discrimination in land use decisions and
 440 | in permitting of development.—It is unlawful to discriminate in
 441 | land use decisions or in the permitting of development based on
 442 | race, color, national origin, sex, sexual orientation, gender
 443 | identity, disability, familial status, religion, or, except as
 444 | otherwise provided by law, the source of financing of a
 445 | development or proposed development.

446 | Section 14. Paragraph (a) of subsection (5) of section
 447 | 760.29, Florida Statutes, is amended to read:

448 | 760.29 Exemptions.—

449 | (5) Nothing in this part ~~ss. 760.20-760.37~~:

450 | (a) Prohibits a person engaged in the business of

451 | furnishing appraisals of real property from taking into
452 | consideration factors other than race, color, national origin,
453 | sex, sexual orientation, gender identity, handicap, familial
454 | status, or religion.

455 | Section 15. Subsection (1) of section 760.60, Florida
456 | Statutes, is amended to read:

457 | 760.60 Discriminatory practices of certain clubs
458 | prohibited; remedies.—

459 | (1) It is unlawful for a person to discriminate against
460 | any individual because of race, color, religion, gender,
461 | national origin, handicap, age above the age of 21, sexual
462 | orientation, gender identity, or marital status in evaluating an
463 | application for membership in a club that has more than 400
464 | members, that provides regular meal service, and that regularly
465 | receives payment for dues, fees, use of space, facilities,
466 | services, meals, or beverages directly or indirectly from
467 | nonmembers for business purposes. It is unlawful for a person,
468 | on behalf of such a club, to publish, circulate, issue, display,
469 | post, or mail any advertisement, notice, or solicitation that
470 | contains a statement to the effect that the accommodations,
471 | advantages, facilities, membership, or privileges of the club
472 | are denied to any individual because of race, color, religion,
473 | gender, national origin, handicap, age above the age of 21,
474 | sexual orientation, gender identity, or marital status. This
475 | subsection does not apply to fraternal or benevolent

476 organizations, ethnic clubs, or religious organizations where
477 business activity is not prevalent.

478 Section 16. Paragraph (e) of subsection (1) of section
479 419.001, Florida Statutes, is amended to read:

480 419.001 Site selection of community residential homes.—

481 (1) For the purposes of this section, the term:

482 (e) "Resident" means any of the following: a frail elder
483 as defined in s. 429.65; a person who has a handicap as defined
484 in s. 760.22(8)(a) ~~s. 760.22(7)(a)~~; a person who has a
485 developmental disability as defined in s. 393.063; a
486 nondangerous person who has a mental illness as defined in s.
487 394.455; or a child who is found to be dependent as defined in
488 s. 39.01 or s. 984.03, or a child in need of services as defined
489 in s. 984.03 or s. 985.03.

490 Section 17. This act shall take effect July 1, 2018.