

By Senator Abruzzo

25-00243-15

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1 A bill to be entitled
2 An act relating to prohibited discrimination; creating
3 the "Florida Competitive Workforce Act"; amending s.
4 760.01, F.S.; revising provisions to include sexual
5 orientation and gender identity or expression and the
6 perception of race, color, religion, sex, national
7 origin, age, sexual orientation, gender identity or
8 expression, handicap, or marital status as
9 impermissible grounds for discrimination; amending s.
10 760.02, F.S.; defining additional terms; amending ss.
11 760.05, 760.07, and 760.08, F.S.; adding sexual
12 orientation and gender identity or expression as
13 impermissible grounds for discrimination; conforming
14 terminology; amending s. 760.10, F.S.; adding sexual
15 orientation and gender identity or expression as
16 impermissible grounds for discrimination; providing an
17 exception for constitutionally protected free exercise
18 of religion; amending s. 509.092, F.S.; adding sexual
19 orientation and gender identity or expression as
20 impermissible grounds for discrimination in public
21 lodging establishments and public food service
22 establishments; providing an exception for
23 constitutionally protected free exercise of religion;
24 amending s. 760.22, F.S.; defining additional terms;
25 amending ss. 760.23, 760.24, 760.25, 760.26, 760.29,
26 and 760.60, F.S.; adding sexual orientation and gender
27 identity or expression as impermissible grounds for
28 discrimination; amending s. 419.001, F.S.; conforming
29 a cross-reference; providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Florida Competitive Workforce Act."

Section 2. Subsection (2) of section 760.01, Florida Statutes, is amended to read:

760.01 Purposes; construction; title.—

(2) The general purposes of the Florida Civil Rights Act of 1992 are to secure for all individuals within the state freedom from discrimination because of, or based on the perception of, race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the state.

Section 3. Section 760.02, Florida Statutes, is reordered and amended to read:

760.02 Definitions.—For the purposes of ss. 760.01-760.11 and s. 509.092, the term:

(7)~~(1)~~ "Florida Civil Rights Act of 1992" means ss. 760.01-760.11 and s. 509.092.

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

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

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59 (4) "Discriminatory practice" means any practice made
60 unlawful by the Florida Civil Rights Act of 1992.

61 ~~(10)-(5)~~ "National origin" includes ancestry.

62 ~~(11)-(6)~~ "Person" includes an individual, association,
63 corporation, joint apprenticeship committee, joint-stock
64 company, labor union, legal representative, mutual company,
65 partnership, receiver, trust, trustee in bankruptcy, or
66 unincorporated organization; any other legal or commercial
67 entity; the state; or any governmental entity or agency.

68 ~~(5)-(7)~~ "Employer" means any person employing 15 or more
69 employees for each working day in each of 20 or more calendar
70 weeks in the current or preceding calendar year, and any agent
71 of such a person.

72 ~~(6)-(8)~~ "Employment agency" means any person regularly
73 undertaking, with or without compensation, to procure employees
74 for an employer or to procure for employees opportunities to
75 work for an employer, and includes an agent of such a person.

76 (8) "Gender identity or expression" means gender-related
77 identity, appearance, or behavior, regardless of whether such
78 gender-related identity, appearance, or behavior is different
79 from that traditionally associated with the person's physiology
80 or assigned sex at birth, which gender-related identity can be
81 shown by providing evidence, including, but not limited to:

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

84 (b) Consistent and uniform assertion of the gender-related
85 identity; or

86 (c) Other evidence that the gender-related identity is a
87 sincerely held part of a person's core identity and is not being

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88 asserted for an improper purpose.

89 (9) "Labor organization" means any organization which
90 exists for the purpose, in whole or in part, of collective
91 bargaining or of dealing with employers concerning grievances,
92 terms or conditions of employment, or other mutual aid or
93 protection in connection with employment.

94 (1)~~(10)~~ "Aggrieved person" means any person who files a
95 complaint with the Human Relations Commission.

96 (12)~~(11)~~ "Public accommodations" means places of public
97 accommodation, lodgings, facilities principally engaged in
98 selling food for consumption on the premises, gasoline stations,
99 places of exhibition or entertainment, and other covered
100 establishments. Each of the following establishments which
101 serves the public is a place of public accommodation within the
102 meaning of this section:

103 (a) Any inn, hotel, motel, or other establishment that
104 ~~which~~ provides lodging to transient guests, other than an
105 establishment located within a building that ~~which~~ contains not
106 more than four rooms for rent or hire and that ~~which~~ is actually
107 occupied by the proprietor of such establishment as his or her
108 residence.

109 (b) Any restaurant, cafeteria, lunchroom, lunch counter,
110 soda fountain, or other facility principally engaged in selling
111 food for consumption on the premises, including, but not limited
112 to, any such facility located on the premises of any retail
113 establishment, or any gasoline station.

114 (c) Any motion picture theater, theater, concert hall,
115 sports arena, stadium, or other place of exhibition or
116 entertainment.

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117 (d) Any establishment that ~~which~~ is physically located
118 within the premises of any establishment otherwise covered by
119 this subsection, or within the premises of which is physically
120 located any such covered establishment, and that ~~which~~ holds
121 itself out as serving patrons of such covered establishment.

122 (13) "Sexual orientation" means an individual's actual or
123 perceived heterosexuality, homosexuality, or bisexuality.

124 Section 4. Section 760.05, Florida Statutes, is amended to
125 read:

126 760.05 Functions of the commission.—The commission shall
127 promote and encourage fair treatment and equal opportunity for
128 all persons regardless of race, color, religion, sex, national
129 origin, age, sexual orientation, gender identity or expression,
130 handicap, or marital status and mutual understanding and respect
131 among all members of society, ~~all economic, social, racial,~~
132 ~~religious, and ethnic groups;~~ and the commission shall endeavor
133 to eliminate discrimination against, and antagonism between,
134 persons on the basis of, or based on the perception of, race,
135 color, religion, sex, national origin, age, sexual orientation,
136 gender identity or expression, handicap, or marital status
137 ~~religious, racial, and ethnic groups and their members.~~

138 Section 5. Section 760.07, Florida Statutes, is amended to
139 read:

140 760.07 Remedies for unlawful discrimination.—Any violation
141 of any Florida statute making unlawful discrimination because
142 of, or based on the perception of, race, color, religion,
143 gender, national origin, age, sexual orientation, gender
144 identity or expression, handicap, or marital status in the areas
145 of education, employment, housing, or public accommodations

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146 gives rise to a cause of action for all relief and damages
147 described in s. 760.11(5), unless greater damages are expressly
148 provided for. If the statute prohibiting unlawful discrimination
149 provides an administrative remedy, the action for equitable
150 relief and damages provided for in this section may be initiated
151 only after the plaintiff has exhausted his or her administrative
152 remedy. The term "public accommodations" does not include lodge
153 halls or other similar facilities of private organizations which
154 are made available for public use occasionally or periodically.
155 The right to trial by jury is preserved in any case in which the
156 plaintiff is seeking actual or punitive damages.

157 Section 6. Section 760.08, Florida Statutes, is amended to
158 read:

159 760.08 Discrimination in places of public accommodation.—
160 All persons shall be entitled to the full and equal enjoyment of
161 the goods, services, facilities, privileges, advantages, and
162 accommodations of any place of public accommodation, as defined
163 in this chapter, without discrimination or segregation on the
164 ground of, or based on the perception of, race, color, national
165 origin, sex, sexual orientation, gender identity or expression,
166 handicap, familial status, or religion.

167 Section 7. Subsections (1) and (2), paragraphs (a) and (b)
168 of subsection (3), subsections (4), (5), and (6), paragraph (a)
169 of subsection (8), and subsection (9) of section 760.10, Florida
170 Statutes, are amended to read:

171 760.10 Unlawful employment practices.—

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

173 (a) To discharge or to fail or refuse to hire any
174 individual, or otherwise to discriminate against any individual

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175 with respect to compensation, terms, conditions, or privileges
176 of employment, because of, or based on the perception of, such
177 individual's race, color, religion, sex, national origin, age,
178 sexual orientation, gender identity or expression, handicap, or
179 marital status.

180 (b) To limit, segregate, or classify employees or
181 applicants for employment in any way that ~~which~~ would deprive or
182 tend to deprive any individual of employment opportunities, or
183 adversely affect any individual's status as an employee, because
184 of, or based on the perception of, such individual's race,
185 color, religion, sex, national origin, age, sexual orientation,
186 gender identity or expression, handicap, or marital status.

187 (2) It is an unlawful employment practice for an employment
188 agency to fail or refuse to refer for employment, or otherwise
189 to discriminate against, any individual because of, or based on
190 the perception of, race, color, religion, sex, national origin,
191 age, sexual orientation, gender identity or expression,
192 handicap, or marital status or to classify or refer for
193 employment any individual on the basis of, or based on the
194 perception of, race, color, religion, sex, national origin, age,
195 sexual orientation, gender identity or expression, handicap, or
196 marital status.

197 (3) It is an unlawful employment practice for a labor
198 organization:

199 (a) To exclude or to expel from its membership, or
200 otherwise to discriminate against, any individual because of, or
201 based on the perception of, race, color, religion, sex, national
202 origin, age, sexual orientation, gender identity or expression,
203 handicap, or marital status.

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204 (b) To limit, segregate, or classify its membership or
205 applicants for membership, or to classify or fail or refuse to
206 refer for employment any individual, in any way that ~~which~~ would
207 deprive or tend to deprive any individual of employment
208 opportunities, or adversely affect any individual's status as an
209 employee or as an applicant for employment, because of, or based
210 on the perception of, such individual's race, color, religion,
211 sex, national origin, age, sexual orientation, gender identity
212 or expression, handicap, or marital status.

213 (4) It is an unlawful employment practice for any employer,
214 labor organization, or joint labor-management committee
215 controlling apprenticeship or other training or retraining,
216 including on-the-job training programs, to discriminate against
217 any individual because of, or based on the perception of, race,
218 color, religion, sex, national origin, age, sexual orientation,
219 gender identity or expression, handicap, or marital status in
220 admission to, or employment in, any program established to
221 provide apprenticeship or other training.

222 (5) Whenever, in order to engage in a profession,
223 occupation, or trade, it is required that a person receive a
224 license, certification, or other credential;; become a member or
225 an associate of any club, association, or other organization;;
226 or pass any examination, it is an unlawful employment practice
227 for any person to discriminate against any other person seeking
228 such license, certification, or other credential;; seeking to
229 become a member or associate of such club, association, or other
230 organization;; or seeking to take or pass such examination,
231 because of, or based on the perception of, such other person's
232 race, color, religion, sex, national origin, age, sexual

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233 orientation, gender identity or expression, handicap, or marital
234 status.

235 (6) It is an unlawful employment practice for an employer,
236 a labor organization, an employment agency, or a joint labor-
237 management committee to print, or cause to be printed or
238 published, any notice or advertisement relating to employment,
239 membership, classification, referral for employment, or
240 apprenticeship or other training which indicates,~~indicating~~ any
241 preference, limitation, specification, or discrimination, based
242 on a person's actual or perceived race, color, religion, sex,
243 national origin, age, sexual orientation, gender identity or
244 expression, absence of handicap, or marital status.

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

249 (a) Take or fail to take any action on the basis of a
250 person's actual or perceived religion, sex, national origin,
251 age, sexual orientation, gender identity or expression,
252 handicap, or marital status in those certain instances in which
253 religion, sex, national origin, age, sexual orientation, gender
254 identity or expression, absence of a particular handicap, or
255 marital status is a bona fide occupational qualification
256 reasonably necessary for the performance of the particular
257 employment to which such action or inaction is related.

258 (9) (a) This section does ~~shall~~ not apply to any religious
259 corporation, association, educational institution, or society
260 which conditions opportunities in the area of employment or
261 public accommodation to members of that religious corporation,

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262 association, educational institution, or society or to persons
263 who subscribe to its tenets or beliefs.

264 (b) This section does ~~shall~~ not prohibit a religious
265 corporation, association, educational institution, or society
266 from giving preference in employment to individuals of a
267 particular religion to perform work connected with the carrying
268 on by such corporations, associations, educational institutions,
269 or societies of its various activities.

270 (c) This section and s. 760.08 do not limit the free
271 exercise of religion guaranteed by the United States
272 Constitution and the State Constitution.

273 Section 8. Section 509.092, Florida Statutes, is amended to
274 read:

275 509.092 Public lodging establishments and public food
276 service establishments; rights as private enterprises.—

277 (1) Public lodging establishments and public food service
278 establishments are private enterprises, and the operator has the
279 right to refuse accommodations or service to any person who is
280 objectionable or undesirable to the operator, but such refusal
281 may not be based upon the person's actual or perceived race,
282 creed, color, sex, physical disability, sexual orientation,
283 gender identity or expression, or national origin.

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

287 (3) This section does not limit the free exercise of
288 religion guaranteed by the United States Constitution and the
289 State Constitution.

290 Section 9. Section 760.22, Florida Statutes, is amended to

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291 read:

292 760.22 Definitions.—As used in ss. 760.20-760.37, the term:

293 (1) "Commission" means the Florida Commission on Human
294 Relations.

295 (2) "Covered multifamily dwelling" means:

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

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

300 (3) "Discriminatory housing practice" means an act that is
301 unlawful under the terms of ss. 760.20-760.37.

302 (4) "Dwelling" means any building or structure, or portion
303 thereof, which is occupied as, or designed or intended for
304 occupancy as, a residence by one or more families, and any
305 vacant land that ~~which~~ is offered for sale or lease for the
306 construction or location on the land of any such building or
307 structure, or portion thereof.

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

310 (a) A parent or other person having legal custody of such
311 individual; or

312 (b) A designee of a parent or other person having legal
313 custody, with the written permission of such parent or other
314 person.

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

316 (7) "Gender identity or expression" has the same meaning as
317 provided in s. 760.02.

318 (8)~~(7)~~ "Handicap" means:

319 (a) A ~~person has a~~ physical or mental impairment that ~~which~~

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320 substantially limits one or more major life activities that a
321 person has, ~~or he or she~~ has a record of having, or is regarded
322 as having, such physical or mental impairment; or

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

325 (9)~~(8)~~ "Person" includes one or more individuals,
326 corporations, partnerships, associations, labor organizations,
327 legal representatives, mutual companies, joint-stock companies,
328 trusts, unincorporated organizations, trustees, trustees in
329 bankruptcy, receivers, and fiduciaries.

330 (10) "Sexual orientation" has the same meaning as defined
331 in s. 760.02.

332 (11)~~(9)~~ "Substantially equivalent" means an administrative
333 subdivision of the State of Florida meeting the requirements of
334 24 C.F.R. part 115, s. 115.6.

335 (12)~~(10)~~ "To rent" includes to lease, to sublease, to let,
336 and otherwise to grant for a consideration the right to occupy
337 premises not owned by the occupant.

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

340 760.23 Discrimination in the sale or rental of housing and
341 other prohibited practices.—

342 (1) It is unlawful to refuse to sell or rent after the
343 making of a bona fide offer, to refuse to negotiate for the sale
344 or rental of, or otherwise to make unavailable or deny a
345 dwelling to any person because of, or based on the perception
346 of, race, color, national origin, sex, sexual orientation,
347 gender identity or expression, handicap, familial status, or
348 religion.

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349 (2) It is unlawful to discriminate against any person in
350 the terms, conditions, or privileges of sale or rental of a
351 dwelling, or in the provision of services or facilities in
352 connection therewith, because of, or based on the perception of,
353 race, color, national origin, sex, sexual orientation, gender
354 identity or expression, handicap, familial status, or religion.

355 (3) It is unlawful to make, print, or publish, or cause to
356 be made, printed, or published, any notice, statement, or
357 advertisement with respect to the sale or rental of a dwelling
358 that indicates any preference, limitation, or discrimination
359 based on a person's actual or perceived race, color, national
360 origin, sex, sexual orientation, gender identity or expression,
361 handicap, familial status, or religion or an intention to make
362 any such preference, limitation, or discrimination.

363 (4) It is unlawful to represent to any person because of,
364 or based on the perception of, the person's race, color,
365 national origin, sex, sexual orientation, gender identity or
366 expression, handicap, familial status, or religion that any
367 dwelling is not available for inspection, sale, or rental when
368 such dwelling is in fact so available.

369 (5) It is unlawful, for profit, to induce or attempt to
370 induce any person to sell or rent any dwelling by a
371 representation regarding the entry or prospective entry into the
372 neighborhood of a person or persons of, or perceived to be of, a
373 particular race, color, national origin, sex, sexual
374 orientation, gender identity or expression, handicap, familial
375 status, or religion.

376 Section 11. Section 760.24, Florida Statutes, is amended to
377 read:

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378 760.24 Discrimination in the provision of brokerage
379 services.—It is unlawful to deny any person access to, or
380 membership or participation in, any multiple-listing service,
381 real estate brokers' organization, or other service,
382 organization, or facility relating to the business of selling or
383 renting dwellings, or to discriminate against him or her in the
384 terms or conditions of such access, membership, or
385 participation, because ~~on account of~~, or based on the perception
386 of, race, color, national origin, sex, sexual orientation,
387 gender identity or expression, handicap, familial status, or
388 religion.

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

391 760.25 Discrimination in the financing of housing or in
392 residential real estate transactions.—

393 (1) It is unlawful for any bank, building and loan
394 association, insurance company, or other corporation,
395 association, firm, or enterprise the business of which consists
396 in whole or in part of the making of commercial real estate
397 loans to deny a loan or other financial assistance to a person
398 applying for the loan for the purpose of purchasing,
399 constructing, improving, repairing, or maintaining a dwelling,
400 or to discriminate against him or her in the fixing of the
401 amount, interest rate, duration, or other term or condition of
402 such loan or other financial assistance, because of, or based on
403 the perception of, the race, color, national origin, sex, sexual
404 orientation, gender identity or expression, handicap, familial
405 status, or religion of such person or of any person associated
406 with him or her in connection with such loan or other financial

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407 assistance or the purposes of such loan or other financial
408 assistance, or because of, or based on the perception of, the
409 race, color, national origin, sex, sexual orientation, gender
410 identity or expression, handicap, familial status, or religion
411 of the present or prospective owners, lessees, tenants, or
412 occupants of the dwelling or dwellings in relation to which such
413 loan or other financial assistance is to be made or given.

414 (2) (a) It is unlawful for any person or entity whose
415 business includes engaging in residential real estate
416 transactions to discriminate against any person in making
417 available such a transaction, or in the terms or conditions of
418 such a transaction, because of, or based on the perception of,
419 race, color, national origin, sex, sexual orientation, gender
420 identity or expression, handicap, familial status, or religion.

421 Section 13. Section 760.26, Florida Statutes, is amended to
422 read:

423 760.26 Prohibited discrimination in land use decisions and
424 in permitting of development.—It is unlawful to discriminate in
425 land use decisions or in the permitting of development based on
426 a person's actual or perceived race, color, national origin,
427 sex, sexual orientation, gender identity or expression,
428 disability, familial status, religion, or, except as otherwise
429 provided by law, the source of financing of a development or
430 proposed development.

431 Section 14. Paragraph (a) of subsection (5) of section
432 760.29, Florida Statutes, is amended to read:

433 760.29 Exemptions.—

434 (5) Nothing in ss. 760.20-760.37:

435 (a) Prohibits a person engaged in the business of

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436 furnishing appraisals of real property from taking into
437 consideration factors other than race, color, national origin,
438 sex, sexual orientation, gender identity or expression,
439 handicap, familial status, or religion.

440 Section 15. Subsection (1) of section 760.60, Florida
441 Statutes, is amended to read:

442 760.60 Discriminatory practices of certain clubs
443 prohibited; remedies.—

444 (1) It is unlawful for a person to discriminate against any
445 individual because of, or based on the perception of, race,
446 color, religion, gender, national origin, handicap, age above
447 the age of 21, sexual orientation, gender identity or
448 expression, or marital status in evaluating an application for
449 membership in a club that has more than 400 members, that
450 provides regular meal service, and that regularly receives
451 payment for dues, fees, use of space, facilities, services,
452 meals, or beverages directly or indirectly from nonmembers for
453 business purposes. It is unlawful for a person, on behalf of
454 such a club, to publish, circulate, issue, display, post, or
455 mail any advertisement, notice, or solicitation that contains a
456 statement to the effect that the accommodations, advantages,
457 facilities, membership, or privileges of the club are denied to
458 any individual because of, or based on the perception of, race,
459 color, religion, gender, national origin, handicap, age above
460 the age of 21, sexual orientation, gender identity or
461 expression, or marital status. This subsection does not apply to
462 fraternal or benevolent organizations, ethnic clubs, or
463 religious organizations where business activity is not
464 prevalent.

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465 Section 16. Paragraph (e) of subsection (1) of section
466 419.001, Florida Statutes, is amended to read:

467 419.001 Site selection of community residential homes.—

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

469 (e) "Resident" means any of the following: a frail elder as
470 defined in s. 429.65; a person who has a handicap as defined in
471 s. 760.22(8)(a) ~~s. 760.22(7)(a)~~; a person who has a
472 developmental disability as defined in s. 393.063; a
473 nondangerous person who has a mental illness as defined in s.
474 394.455; or a child who is found to be dependent as defined in
475 s. 39.01 or s. 984.03, or a child in need of services as defined
476 in s. 984.03 or s. 985.03.

477 Section 17. This act shall take effect July 1, 2015.