

1                   A bill to be entitled  
2           An act relating to housing discrimination; amending s.  
3           760.07, F.S.; removing housing discrimination as a  
4           cause of action for certain relief and damages  
5           resulting from violations of the Florida Civil Rights  
6           Act of 1992; amending s. 760.22, F.S.; defining the  
7           terms "gender identity" and "sexual orientation";  
8           amending ss. 760.23, 760.24, 760.25, 760.26, and  
9           760.29, F.S.; revising provisions of the Fair Housing  
10          Act to prohibit discrimination on the basis of sexual  
11          orientation and gender identity; amending s. 760.34,  
12          F.S.; revising the conditions under which an aggrieved  
13          person may commence a civil action against a specified  
14          respondent; providing that the aggrieved person does  
15          not need to take specified actions before bringing a  
16          civil action; amending s. 760.35, F.S.; authorizing an  
17          aggrieved person to commence a civil action regardless  
18          of whether a specified complaint has been filed and  
19          regardless of the status of such complaint;  
20          prohibiting an aggrieved person from commencing a  
21          specified civil action if such person has consented to  
22          a conciliation agreement, with an exception;  
23          prohibiting an aggrieved person from commencing a  
24          specified civil action if an administrative law judge  
25          has commenced a hearing on the record on the

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26 allegation; amending s. 419.001, F.S.; conforming a  
27 cross-reference; providing an effective date.

28  
29 Be It Enacted by the Legislature of the State of Florida:

30  
31 Section 1. Section 760.07, Florida Statutes, is amended to  
32 read:

33 760.07 Remedies for unlawful discrimination.—Any violation  
34 of any Florida statute that makes ~~making~~ unlawful discrimination  
35 because of race, color, religion, gender, pregnancy, national  
36 origin, age, handicap, or marital status in the areas of  
37 education, employment, ~~housing~~, or public accommodations gives  
38 rise to a cause of action for all relief and damages described  
39 in s. 760.11(5), unless greater damages are expressly provided  
40 for. If the statute prohibiting unlawful discrimination provides  
41 an administrative remedy, the action for equitable relief and  
42 damages provided for in this section may be initiated only after  
43 the plaintiff has exhausted his or her administrative remedy.  
44 The term "public accommodations" does not include lodge halls or  
45 other similar facilities of private organizations which are made  
46 available for public use occasionally or periodically. The right  
47 to trial by jury is preserved in any case in which the plaintiff  
48 is seeking actual or punitive damages.

49 Section 2. Subsections (7) through (10) of section 760.22,  
50 Florida Statutes, are renumbered as subsections (8) through

51 (12), respectively, and new subsections (7) and (10) are added  
52 to that section, to read:

53 760.22 Definitions.—As used in ss. 760.20-760.37, the  
54 term:

55 (7) "Gender identity" means gender-related identity,  
56 appearance, or behavior, regardless of whether such gender-  
57 related identity, appearance, or behavior is different from that  
58 traditionally associated with the person's physiology or  
59 assigned sex at birth, and which gender-related identity can be  
60 proven by evidence, including, but not limited to:

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

63 (b) Consistent and uniform assertion of the gender-related  
64 identity; or

65 (c) Other evidence that the gender-related identity is a  
66 sincerely held part of a person's core identity and is not being  
67 asserted for any improper purpose.

68 (8)-(7) "Handicap" means:

69 (a) A person has a physical or mental impairment which  
70 substantially limits one or more major life activities, or he or  
71 she has a record of having, or is regarded as having, such  
72 physical or mental impairment; or

73 (b) A person has a developmental disability as defined in  
74 s. 393.063.

75 (9)-(8) "Person" includes one or more individuals,

76 corporations, partnerships, associations, labor organizations,  
77 legal representatives, mutual companies, joint-stock companies,  
78 trusts, unincorporated organizations, trustees, trustees in  
79 bankruptcy, receivers, and fiduciaries.

80 (10) "Sexual orientation" means an individual's  
81 heterosexuality, homosexuality, or bisexuality.

82 (11)~~(9)~~ "Substantially equivalent" means an administrative  
83 subdivision of the State of Florida meeting the requirements of  
84 24 C.F.R. part 115, s. 115.6.

85 (12)~~(10)~~ "To rent" includes to lease, to sublease, to let,  
86 and otherwise to grant for a consideration the right to occupy  
87 premises not owned by the occupant.

88 Section 3. Subsections (1), (2), (3), (4), and (5) of  
89 section 760.23, Florida Statutes, are amended to read:

90 760.23 Discrimination in the sale or rental of housing and  
91 other prohibited practices.—

92 (1) It is unlawful to refuse to sell or rent after the  
93 making of a bona fide offer, to refuse to negotiate for the sale  
94 or rental of, or otherwise to make unavailable or deny a  
95 dwelling to any person because of race, color, national origin,  
96 sex, sexual orientation, gender identity, handicap, familial  
97 status, or religion.

98 (2) It is unlawful to discriminate against any person in  
99 the terms, conditions, or privileges of sale or rental of a  
100 dwelling, or in the provision of services or facilities in

101 connection therewith, because of race, color, national origin,  
102 sex, sexual orientation, gender identity, handicap, familial  
103 status, or religion.

104 (3) It is unlawful to make, print, or publish, or cause to  
105 be made, printed, or published, any notice, statement, or  
106 advertisement with respect to the sale or rental of a dwelling  
107 that indicates any preference, limitation, or discrimination  
108 based on race, color, national origin, sex, sexual orientation,  
109 gender identity, handicap, familial status, or religion or an  
110 intention to make any such preference, limitation, or  
111 discrimination.

112 (4) It is unlawful to represent to any person because of  
113 race, color, national origin, sex, sexual orientation, gender  
114 identity, handicap, familial status, or religion that any  
115 dwelling is not available for inspection, sale, or rental when  
116 such dwelling is in fact so available.

117 (5) It is unlawful, for profit, to induce or attempt to  
118 induce any person to sell or rent any dwelling by a  
119 representation regarding the entry or prospective entry into the  
120 neighborhood of a person or persons of a particular race, color,  
121 national origin, sex, sexual orientation, gender identity,  
122 handicap, familial status, or religion.

123 Section 4. Section 760.24, Florida Statutes, is amended to  
124 read:

125 760.24 Discrimination in the provision of brokerage

126 | services.—It is unlawful to deny any person access to, or  
127 | membership or participation in, any multiple-listing service,  
128 | real estate brokers' organization, or other service,  
129 | organization, or facility relating to the business of selling or  
130 | renting dwellings, or to discriminate against him or her in the  
131 | terms or conditions of such access, membership, or  
132 | participation, on account of race, color, national origin, sex,  
133 | sexual orientation, gender identity, handicap, familial status,  
134 | or religion.

135 |       Section 5. Subsection (1) and paragraph (a) of subsection  
136 | (2) of section 760.25, Florida Statutes, is amended to read:

137 |       760.25 Discrimination in the financing of housing or in  
138 | residential real estate transactions.—

139 |       (1) It is unlawful for any bank, building and loan  
140 | association, insurance company, or other corporation,  
141 | association, firm, or enterprise the business of which consists  
142 | in whole or in part of the making of commercial real estate  
143 | loans to deny a loan or other financial assistance to a person  
144 | applying for the loan for the purpose of purchasing,  
145 | constructing, improving, repairing, or maintaining a dwelling,  
146 | or to discriminate against him or her in the fixing of the  
147 | amount, interest rate, duration, or other term or condition of  
148 | such loan or other financial assistance, because of the race,  
149 | color, national origin, sex, sexual orientation, gender  
150 | identity, handicap, familial status, or religion of such person

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151 or of any person associated with him or her in connection with  
152 such loan or other financial assistance or the purposes of such  
153 loan or other financial assistance, or because of the race,  
154 color, national origin, sex, sexual orientation, gender  
155 identity, handicap, familial status, or religion of the present  
156 or prospective owners, lessees, tenants, or occupants of the  
157 dwelling or dwellings in relation to which such loan or other  
158 financial assistance is to be made or given.

159 (2) (a) It is unlawful for any person or entity whose  
160 business includes engaging in residential real estate  
161 transactions to discriminate against any person in making  
162 available such a transaction, or in the terms or conditions of  
163 such a transaction, because of race, color, national origin,  
164 sex, sexual orientation, gender identity, handicap, familial  
165 status, or religion.

166 Section 6. Section 760.26, Florida Statutes, is amended to  
167 read:

168 760.26 Prohibited discrimination in land use decisions and  
169 in permitting of development.—It is unlawful to discriminate in  
170 land use decisions or in the permitting of development based on  
171 race, color, national origin, sex, sexual orientation, gender  
172 identity, disability, familial status, religion, or, except as  
173 otherwise provided by law, the source of financing of a  
174 development or proposed development.

175 Section 7. Paragraph (a) of subsection (5) of section

176 760.29, Florida Statutes, is amended to read:

177 760.29 Exemptions.—

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

179 (a) Prohibits a person engaged in the business of  
180 furnishing appraisals of real property from taking into  
181 consideration factors other than race, color, national origin,  
182 sex, sexual orientation, gender identity, handicap, familial  
183 status, or religion.

184 Section 8. Subsections (2) and (4) of section 760.34,  
185 Florida Statutes, are amended to read:

186 760.34 Enforcement.—

187 (2) A person who files a complaint under subsection (1)  
188 must do so ~~be filed~~ within 1 year after the alleged  
189 discriminatory housing practice occurred. The complaint must be  
190 in writing and shall state the facts upon which the allegations  
191 of a discriminatory housing practice are based. A complaint may  
192 be reasonably and fairly amended at any time. A respondent may  
193 file an answer to the complaint against him or her and, with the  
194 leave of the commission, which shall be granted whenever it  
195 would be reasonable and fair to do so, may amend his or her  
196 answer at any time. Both the complaint and the answer shall be  
197 verified.

198 ~~(4) If, within 180 days after a complaint is filed with~~  
199 ~~the commission or within 180 days after expiration of any period~~  
200 ~~of reference under subsection (3), the commission has been~~

201 ~~unable to obtain voluntary compliance with ss. 760.20-760.37,~~  
202 The person aggrieved may commence a civil action in any  
203 appropriate court against the respondent named in the complaint  
204 or petition for an administrative determination pursuant to s.  
205 760.35 to enforce the rights granted or protected by ss. 760.20-  
206 760.37. The person aggrieved is not required to petition for an  
207 administrative hearing or exhaust administrative remedies before  
208 bringing a civil action. If, as a result of its investigation  
209 under subsection (1), the commission finds there is reasonable  
210 cause to believe that a discriminatory housing practice has  
211 occurred, at the request of the person aggrieved, the Attorney  
212 General may bring an action in the name of the state on behalf  
213 of the aggrieved person to enforce the provisions of ss. 760.20-  
214 760.37.

215 Section 9. Section 760.35, Florida Statutes, is amended to  
216 read:

217 760.35 Civil actions and relief; administrative  
218 procedures.—

219 (1) An aggrieved person may commence a civil action under  
220 this section ~~shall be commenced~~ no later than 2 years after an  
221 alleged discriminatory housing practice has occurred. However,  
222 the court shall continue a civil case brought pursuant to this  
223 section or s. 760.34 from time to time before bringing it to  
224 trial if the court believes that the conciliation efforts of the  
225 commission or local agency are likely to result in satisfactory

226 settlement of the discriminatory housing practice complained of  
227 in the complaint made to the commission or to the local agency  
228 and which practice forms the basis for the action in court. Any  
229 sale, encumbrance, or rental consummated prior to the issuance  
230 of any court order issued under the authority of ss. 760.20-  
231 760.37 and involving a bona fide purchaser, encumbrancer, or  
232 tenant without actual notice of the existence of the filing of a  
233 complaint or civil action under the provisions of ss. 760.20-  
234 760.37 shall not be affected.

235       (2) An aggrieved person may commence a civil action under  
236 this section regardless of whether a complaint has been filed  
237 under s. 760.34(1) and regardless of the status of such  
238 complaint. If the commission has obtained a conciliation  
239 agreement with the consent of an aggrieved person under s.  
240 760.36, the aggrieved person may not file an action under this  
241 section regarding the alleged discriminatory housing practice  
242 that forms the basis for the complaint, except for the purpose  
243 of enforcing the terms of such an agreement.

244       (3) An aggrieved person may not commence a civil action  
245 under this section regarding an alleged discriminatory housing  
246 practice if an administrative law judge has commenced a hearing  
247 on the record on the allegation.

248       (4) If the court finds that a discriminatory housing  
249 practice has occurred, it shall issue an order prohibiting the  
250 practice and providing affirmative relief from the effects of

251 the practice, including injunctive and other equitable relief,  
252 actual and punitive damages, and reasonable attorney ~~attorney's~~  
253 fees and costs.

254 ~~(5)-(3)~~(a) If the commission is unable to obtain voluntary  
255 compliance with ss. 760.20-760.37 or has reasonable cause to  
256 believe that a discriminatory practice has occurred:

257 1. The commission may institute an administrative  
258 proceeding under chapter 120; or

259 2. The person aggrieved may request administrative relief  
260 under chapter 120 within 30 days after receiving notice that the  
261 commission has concluded its investigation under s. 760.34.

262 (b) Administrative hearings shall be conducted pursuant to  
263 ss. 120.569 and 120.57(1). The respondent must be served written  
264 notice by certified mail. If the administrative law judge finds  
265 that a discriminatory housing practice has occurred or is about  
266 to occur, he or she shall issue a recommended order to the  
267 commission prohibiting the practice and recommending affirmative  
268 relief from the effects of the practice, including quantifiable  
269 damages and reasonable attorney ~~attorney's~~ fees and costs. The  
270 commission may adopt, reject, or modify a recommended order only  
271 as provided under s. 120.57(1). Judgment for the amount of  
272 damages and costs assessed pursuant to a final order by the  
273 commission may be entered in any court having jurisdiction  
274 thereof and may be enforced as any other judgment.

275 (c) The district courts of appeal may, upon the filing of

276 appropriate notices of appeal, review final orders of the  
277 commission pursuant to s. 120.68. Costs or fees may not be  
278 assessed against the commission in any appeal from a final order  
279 issued by the commission under this subsection. Unless  
280 specifically ordered by the court, the commencement of an appeal  
281 does not suspend or stay an order of the commission.

282 (d) This subsection does not prevent any other legal or  
283 administrative action provided by law.

284 Section 10. Paragraph (e) of subsection (1) of section  
285 419.001, Florida Statutes, is amended to read:

286 419.001 Site selection of community residential homes.—

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

288 (e) "Resident" means any of the following: a frail elder  
289 as defined in s. 429.65; a person who has a handicap as defined  
290 in s. 760.22(8)(a) ~~s. 760.22(7)(a)~~; a person who has a  
291 developmental disability as defined in s. 393.063; a  
292 nondangerous person who has a mental illness as defined in s.  
293 394.455; or a child who is found to be dependent as defined in  
294 s. 39.01 or s. 984.03, or a child in need of services as defined  
295 in s. 984.03 or s. 985.03.

296 Section 11. This act shall take effect upon becoming a  
297 law.