

By Senator Rouson

19-01053-20

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1 A bill to be entitled
2 An act relating to the Florida Commission on Human
3 Relations; amending s. 760.03, F.S.; revising quorum
4 requirements for the Commission on Human Relations and
5 its panels; amending s. 760.065, F.S.; revising the
6 number of persons the commission must recommend for
7 the Florida Civil Rights Hall of Fame; amending s.
8 760.11, F.S.; requiring the commission to provide
9 notice to an aggrieved person under specified
10 circumstances; providing notice requirements; limiting
11 the time the aggrieved person has to commence a civil
12 action regarding a violation of the Florida Civil
13 Rights Act; amending s. 760.29, F.S.; deleting a
14 requirement that a facility or community that provides
15 housing for older persons register with and submit a
16 letter to the commission; amending s. 760.31, F.S.;
17 conforming a provision to changes made by the act;
18 amending s. 760.60, F.S.; deleting the requirement for
19 the commission or Attorney General to investigate a
20 complaint of discrimination in evaluating an
21 application for club membership; revising the length
22 of time the commission or Attorney General has to
23 resolve such a complaint; amending s. 112.31895, F.S.;
24 revising the timeline relating to a complaint alleging
25 a prohibited personnel action; deleting a requirement
26 that the commission notify a complainant upon receipt
27 of the complaint; providing an effective date.

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

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Section 1. Subsection (5) of section 760.03, Florida Statutes, is amended to read:

760.03 Commission on Human Relations; staff.—

(5) A quorum is necessary for the conduct of official business. Unless otherwise provided by law, a quorum consists of a majority of the currently appointed commissioners. Seven~~members shall constitute a quorum for the conduct of business; however,~~ The commission may establish panels of not less than three of its members to exercise its powers under the Florida Civil Rights Act of 1992, subject to such procedures and limitations as the commission may provide by rule. Notwithstanding this subsection, three appointed members serving on panels shall constitute a quorum for the conduct of official business of the panel.

Section 2. Paragraph (a) of subsection (3) of section 760.065, Florida Statutes, is amended to read:

760.065 Florida Civil Rights Hall of Fame.—

(3)(a) The commission shall annually accept nominations for persons to be recommended as members of the Florida Civil Rights Hall of Fame. The commission shall recommend up to 10 persons from which the Governor shall select up to 3 hall-of-fame members.

Section 3. Subsection (8) of section 760.11, Florida Statutes, is amended to read:

760.11 Administrative and civil remedies; construction.—

(8) If ~~In the event that~~ the commission fails to conciliate or determine whether there is reasonable cause on any complaint under this section within 180 days of the filing of the

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59 complaint:~~7~~

60 (a) An aggrieved person may proceed under subsection (4)~~7~~
61 as if the commission determined that there was reasonable cause.

62 (b) The commission shall promptly notify the aggrieved
63 person of the failure to conciliate or determine whether there
64 is reasonable cause. The notice shall provide the options
65 available to the aggrieved person under subsection (4) and
66 inform the aggrieved person that a civil action is prohibited if
67 not filed within 1 year after the date the commission certifies
68 that the notice was mailed.

69 (c) Any civil action brought by an aggrieved person under
70 this section must be commenced within 1 year after the date the
71 commission certifies that the notice was mailed pursuant to
72 paragraph (b).

73 Section 4. Subsection (4) of section 760.29, Florida
74 Statutes, is amended to read:

75 760.29 Exemptions.—

76 (4) (a) Any provision of ss. 760.20-760.37 regarding
77 familial status does not apply with respect to housing for older
78 persons.

79 (b) As used in this subsection, the term "housing for older
80 persons" means housing:

81 1. Provided under any state or federal program that the
82 commission determines is specifically designed and operated to
83 assist elderly persons, as defined in the state or federal
84 program;

85 2. Intended for, and solely occupied by, persons 62 years
86 of age or older; or

87 3. Intended and operated for occupancy by persons 55 years

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88 of age or older that meets the following requirements:

89 a. At least 80 percent of the occupied units are occupied
90 by at least one person 55 years of age or older.

91 b. The housing facility or community publishes and adheres
92 to policies and procedures that demonstrate the intent required
93 under this subparagraph. If the housing facility or community
94 meets the requirements of sub-subparagraphs a. and c. and the
95 recorded governing documents provide for an adult, senior, or
96 retirement housing facility or community and the governing
97 documents lack an amendatory procedure, prohibit amendments, or
98 restrict amendments until a specified future date, then that
99 housing facility or community shall be deemed housing for older
100 persons intended and operated for occupancy by persons 55 years
101 of age or older. If those documents further provide a
102 prohibition against residents 16 years of age or younger, that
103 provision shall be construed, for purposes of the Fair Housing
104 Act, to only apply to residents 18 years of age or younger, in
105 order to conform with federal law requirements. Governing
106 documents which can be amended at a future date must be amended
107 and properly recorded within 1 year after that date to reflect
108 the requirements for consideration as housing for older persons,
109 if that housing facility or community intends to continue as
110 housing for older persons.

111 c. The housing facility or community complies with rules
112 made by the Secretary of the United States Department of Housing
113 and Urban Development pursuant to 24 C.F.R. part 100 for
114 verification of occupancy, which rules provide for verification
115 by reliable surveys and affidavits and include examples of the
116 types of policies and procedures relevant to a determination of

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117 compliance with the requirements of sub-subparagraph b. Such
118 surveys and affidavits are admissible in administrative and
119 judicial proceedings for the purposes of such verification.

120 (c) Housing shall not fail to be considered housing for
121 older persons if:

122 1. A person who resides in such housing on or after October
123 1, 1989, does not meet the age requirements of this subsection,
124 provided that any new occupant meets such age requirements; or

125 2. One or more units are unoccupied, provided that any
126 unoccupied units are reserved for occupancy by persons who meet
127 the age requirements of this subsection.

128 (d) A person shall not be personally liable for monetary
129 damages for a violation of this subsection if such person
130 reasonably relied in good faith on the application of the
131 exemption under this subsection relating to housing for older
132 persons. For purposes of this paragraph, a person may show good
133 faith reliance on the application of the exemption only by
134 showing that:

135 1. The person has no actual knowledge that the facility or
136 the community is ineligible, or will become ineligible, for such
137 exemption; and

138 2. The facility or community has stated formally, in
139 writing, that the facility or community complies with the
140 requirements for such exemption.

141 ~~(e) A facility or community claiming an exemption under~~
142 ~~this subsection shall register with the commission and submit a~~
143 ~~letter to the commission stating that the facility or community~~
144 ~~complies with the requirements of subparagraph (b)1.,~~
145 ~~subparagraph (b)2., or subparagraph (b)3. The letter shall be~~

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146 ~~submitted on the letterhead of the facility or community and~~
147 ~~shall be signed by the president of the facility or community.~~
148 ~~This registration and documentation shall be renewed biennially~~
149 ~~from the date of original filing. The information in the~~
150 ~~registry shall be made available to the public, and the~~
151 ~~commission shall include this information on an Internet~~
152 ~~website. The commission may establish a reasonable registration~~
153 ~~fee, not to exceed \$20, that shall be deposited into the~~
154 ~~commission's trust fund to defray the administrative costs~~
155 ~~associated with maintaining the registry. The commission may~~
156 ~~impose an administrative fine, not to exceed \$500, on a facility~~
157 ~~or community that knowingly submits false information in the~~
158 ~~documentation required by this paragraph. Such fines shall be~~
159 ~~deposited in the commission's trust fund. The registration and~~
160 ~~documentation required by this paragraph shall not substitute~~
161 ~~for proof of compliance with the requirements of this~~
162 ~~subsection. Failure to comply with the requirements of this~~
163 ~~paragraph shall not disqualify a facility or community that~~
164 ~~otherwise qualifies for the exemption provided in this~~
165 ~~subsection.~~

166
167 A county or municipal ordinance regarding housing for older
168 persons may not contravene the provisions of this subsection.

169 Section 5. Subsection (5) of section 760.31, Florida
170 Statutes, is amended to read:

171 760.31 Powers and duties of commission.—The commission
172 shall:

173 (5) Adopt rules necessary to implement ss. 760.20-760.37
174 and govern the proceedings of the commission in accordance with

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175 chapter 120. Commission rules shall clarify terms used with
176 regard to handicapped accessibility, exceptions from
177 accessibility requirements based on terrain or site
178 characteristics, and requirements related to housing for older
179 persons. ~~Commission rules shall specify the fee and the forms
180 and procedures to be used for the registration required by s.
181 760.29(4)(e).~~

182 Section 6. Subsections (2) and (3) of section 760.60,
183 Florida Statutes, are amended to read:

184 760.60 Discriminatory practices of certain clubs
185 prohibited; remedies.-

186 (2) A person who has been discriminated against in
187 violation of this act may file a complaint with the Commission
188 on Human Relations or with the Attorney General's Office of
189 Civil Rights. A complaint must be in writing and must contain
190 such information and be in such form as the commission requires.
191 Upon receipt of a complaint, the commission or the Attorney
192 General shall provide a copy to the person who represents the
193 club. Within 30 days after receiving a complaint, the commission
194 or the Attorney General shall ~~investigate the alleged~~
195 ~~discrimination~~ and give notice in writing to the person who
196 filed the complaint if it intends to resolve the complaint. If
197 the commission or the Attorney General decides to resolve the
198 complaint, it shall attempt to eliminate or correct the alleged
199 discriminatory practices of a club by informal methods of
200 conference, conciliation, and persuasion.

201 (3) If the commission or the Attorney General fails, within
202 30 days after receiving a complaint filed pursuant to subsection
203 (2), to give notice of its intent to eliminate or correct the

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204 alleged discriminatory practices of a club, or if the commission
205 or the Attorney General fails to resolve the complaint within 45
206 ~~30~~ days after giving such notice, the person or the Attorney
207 General on behalf of the person filing the complaint may
208 commence a civil action in a court against the club, its
209 officers, or its members to enforce this section. If the court
210 finds that a discriminatory practice occurs at the club, the
211 court may enjoin the club, its officers, or its members from
212 engaging in such practice or may order other appropriate action.

213 Section 7. Subsections (1) and (2), paragraphs (d) and (e)
214 of subsection (3), and paragraph (a) of subsection (4) of
215 section 112.31895, Florida Statutes, are amended to read:

216 112.31895 Investigative procedures in response to
217 prohibited personnel actions.—

218 (1) (a) If a disclosure under s. 112.3187 includes or
219 results in alleged retaliation by an employer, the employee or
220 former employee of, or applicant for employment with, a state
221 agency, as defined in s. 216.011, that is so affected may file a
222 complaint alleging a prohibited personnel action, which
223 complaint must be made by filing a written complaint with the
224 Office of the Chief Inspector General in the Executive Office of
225 the Governor or the Florida Commission on Human Relations, no
226 later than 60 days after the prohibited personnel action.

227 (b) Within 5 ~~three~~ working days after receiving a complaint
228 under this section, the office or officer receiving the
229 complaint shall acknowledge receipt of the complaint and provide
230 copies of the complaint and any other preliminary information
231 available concerning the disclosure of information under s.
232 112.3187 to each of the other parties named in paragraph (a),

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233 which parties shall each acknowledge receipt of such copies to
234 the complainant.

235 (2) FACT FINDING.—The Florida Commission on Human Relations
236 shall:

237 (a) Receive any allegation of a personnel action prohibited
238 by s. 112.3187, including a proposed or potential action, and
239 conduct informal fact finding regarding any allegation under
240 this section, to the extent necessary to determine whether there
241 are reasonable grounds to believe that a prohibited personnel
242 action under s. 112.3187 has occurred, is occurring, or is to be
243 taken.

244 ~~(b) Notify the complainant, within 15 days after receiving~~
245 ~~a complaint, that the complaint has been received by the~~
246 ~~department.~~

247 (b)(e) Within 180 ~~90~~ days after receiving the complaint,
248 provide the agency head and the complainant with a fact-finding
249 report that may include recommendations to the parties or
250 proposed resolution of the complaint. The fact-finding report
251 shall be presumed admissible in any subsequent or related
252 administrative or judicial review.

253 (3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

254 (d) If the Florida Commission on Human Relations is unable
255 to conciliate a complaint within 35 ~~60~~ days after receipt of the
256 fact-finding report, the Florida Commission on Human Relations
257 shall terminate the investigation. Upon termination of any
258 investigation, the Florida Commission on Human Relations shall
259 notify the complainant and the agency head of the termination of
260 the investigation, providing a summary of relevant facts found
261 during the investigation and the reasons for terminating the

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262 investigation. A written statement under this paragraph is
263 presumed admissible as evidence in any judicial or
264 administrative proceeding but is not admissible without the
265 consent of the complainant.

266 (e)1. The Florida Commission on Human Relations may request
267 an agency or circuit court to order a stay, on such terms as the
268 court requires, of any personnel action for 45 days if the
269 Florida Commission on Human Relations determines that reasonable
270 grounds exist to believe that a prohibited personnel action has
271 occurred, is occurring, or is to be taken. The Florida
272 Commission on Human Relations may request that such stay be
273 extended for appropriate periods of time.

274 2. If, in connection with any investigation, the Florida
275 Commission on Human Relations determines that reasonable grounds
276 exist to believe that a prohibited action has occurred, is
277 occurring, or is to be taken which requires corrective action,
278 the Florida Commission on Human Relations shall report the
279 determination together with any findings or recommendations to
280 the agency head and may report that determination and those
281 findings and recommendations to the Governor and the Chief
282 Financial Officer. The Florida Commission on Human Relations may
283 include in the report recommendations for corrective action to
284 be taken.

285 3. If, after 35 ~~20~~ days, the agency does not implement the
286 recommended action, the Florida Commission on Human Relations
287 shall terminate the investigation and notify the complainant of
288 the right to appeal under subsection (4), or may petition the
289 agency for corrective action under this subsection.

290 4. If the Florida Commission on Human Relations finds, in

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291 consultation with the individual subject to the prohibited
292 action, that the agency has implemented the corrective action,
293 the commission shall file such finding with the agency head,
294 together with any written comments that the individual provides,
295 and terminate the investigation.

296 (4) RIGHT TO APPEAL.—

297 (a) Not more than 21 ~~60~~ days after receipt of a notice of
298 termination of the investigation from the Florida Commission on
299 Human Relations, the complainant may file, with the Public
300 Employees Relations Commission, a complaint against the
301 employer-agency regarding the alleged prohibited personnel
302 action. The Public Employees Relations Commission shall have
303 jurisdiction over such complaints under ss. 112.3187 and
304 447.503(4) and (5).

305 Section 8. This act shall take effect July 1, 2020.