



423392

LEGISLATIVE ACTION

Senate

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House

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The Committee on Commerce and Tourism (Torres) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 211 and 212

insert:

Section 5. Section 509.092, Florida Statutes, is amended to read:

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

(1) Public lodging establishments and public food service establishments are private enterprises, and the operator has the



423392

11 right to refuse accommodations or service to any person who is  
12 objectionable or undesirable to the operator, but such refusal  
13 may not be based upon race, creed, color, sex, pregnancy,  
14 physical disability, sexual orientation, gender identity, or  
15 national origin.

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

19 (3) This section does not limit the free exercise of  
20 religion guaranteed by the United States Constitution and the  
21 State Constitution.

22 Section 6. Subsection (1) of section 760.01, Florida  
23 Statutes, is republished, and subsection (2) of that section is  
24 amended, to read:

25 760.01 Purposes; construction; title.—

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

28 (2) The general purposes of the Florida Civil Rights Act of  
29 1992 are to secure for all individuals within the state freedom  
30 from discrimination because of race, color, religion, sex,  
31 pregnancy, national origin, age, sexual orientation, gender  
32 identity, handicap, or marital status and thereby to protect  
33 their interest in personal dignity, to make available to the  
34 state their full productive capacities, to secure the state  
35 against domestic strife and unrest, to preserve the public  
36 safety, health, and general welfare, and to promote the  
37 interests, rights, and privileges of individuals within the  
38 state.

39 Section 7. Section 760.02, Florida Statutes, is reordered



423392

40 and amended to read:

41 760.02 Definitions.—For the purposes of ss. 760.01-760.11  
42 and 509.092, the term:

43 (7)~~(1)~~ "Florida Civil Rights Act of 1992" means ss. 760.01-  
44 760.11 and 509.092.

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

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

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

51 (10)~~(5)~~ "National origin" includes ancestry.

52 (11)~~(6)~~ "Person" includes an individual, association,  
53 corporation, joint apprenticeship committee, joint-stock  
54 company, labor union, legal representative, mutual company,  
55 partnership, receiver, trust, trustee in bankruptcy, or  
56 unincorporated organization; any other legal or commercial  
57 entity; the state; or any governmental entity or agency.

58 (5)~~(7)~~ "Employer" means any person employing 10 ~~15~~ or more  
59 employees for each working day in each of 20 or more calendar  
60 weeks in the current or preceding calendar year, and any agent  
61 of such a person.

62 (6)~~(8)~~ "Employment agency" means any person regularly  
63 undertaking, with or without compensation, to procure employees  
64 for an employer or to procure for employees opportunities to  
65 work for an employer, and includes an agent of such a person.

66 (8) "Gender identity" means gender-related identity,  
67 appearance, or behavior, regardless of whether such gender-  
68 related identity, appearance, or behavior is different from that



423392

69 traditionally associated with the person's physiology or  
70 assigned sex at birth.

71 (9) "Labor organization" means any organization that ~~which~~  
72 exists for the purpose, in whole or in part, of collective  
73 bargaining or of dealing with employers concerning grievances,  
74 terms or conditions of employment, or other mutual aid or  
75 protection in connection with employment.

76 (1) ~~(10)~~ "Aggrieved person" means any person who files a  
77 complaint with the ~~Human Relations~~ commission.

78 (12) ~~(11)~~ "Public accommodations" means places of public  
79 accommodation, lodgings, facilities principally engaged in  
80 selling food for consumption on the premises, gasoline stations,  
81 places of exhibition or entertainment, and other covered  
82 establishments. Each of the following establishments which  
83 serves the public is a place of public accommodation within the  
84 meaning of this section:

85 (a) Any inn, hotel, motel, or other establishment that  
86 ~~which~~ provides lodging to transient guests, other than an  
87 establishment located within a building that ~~which~~ contains not  
88 more than four rooms for rent or hire and that ~~which~~ is actually  
89 occupied by the proprietor of such establishment as his or her  
90 residence.

91 (b) Any restaurant, cafeteria, lunchroom, lunch counter,  
92 soda fountain, or other facility principally engaged in selling  
93 food for consumption on the premises, including, but not limited  
94 to, any such facility located on the premises of any retail  
95 establishment, or any gasoline station.

96 (c) Any motion picture theater, theater, concert hall,  
97 sports arena, stadium, or other place of exhibition or



423392

98 entertainment.

99 (d) Any establishment that ~~which~~ is physically located  
100 within the premises of any establishment otherwise covered by  
101 this subsection, or within the premises of which is physically  
102 located any such covered establishment, and that ~~which~~ holds  
103 itself out as serving patrons of such covered establishment.

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

106 Section 8. Section 760.05, Florida Statutes, is amended to  
107 read:

108 760.05 Functions of the commission.—The commission shall  
109 promote and encourage fair treatment and equal opportunity for  
110 all persons regardless of race, color, religion, sex, pregnancy,  
111 national origin, age, sexual orientation, gender identity,  
112 handicap, or marital status and mutual understanding and respect  
113 among all members of society. ~~The commission all economic,~~  
114 ~~social, racial, religious, and ethnic groups;~~ and shall endeavor  
115 to eliminate discrimination against, and antagonism between,  
116 persons on the basis of race, color, religion, sex, pregnancy,  
117 national origin, age, sexual orientation, gender identity,  
118 handicap, or marital status ~~religious, racial, and ethnic groups~~  
119 ~~and their members.~~

120 Section 9. Section 760.07, Florida Statutes, is amended to  
121 read:

122 760.07 Remedies for unlawful discrimination.—Any violation  
123 of any state law ~~Florida statute~~ making unlawful discrimination  
124 because of race, color, religion, gender, pregnancy, national  
125 origin, age, sexual orientation, gender identity, handicap, or  
126 marital status in the areas of education, employment, housing,



423392

127 or public accommodations gives rise to a cause of action for all  
128 relief and damages described in s. 760.11(5), unless greater  
129 damages are expressly provided for. If the statute prohibiting  
130 unlawful discrimination provides an administrative remedy, the  
131 action for equitable relief and damages provided for in this  
132 section may be initiated only after the plaintiff has exhausted  
133 his or her administrative remedy. The term "public  
134 accommodations" does not include lodge halls or other similar  
135 facilities of private organizations which are made available for  
136 public use occasionally or periodically. The right to trial by  
137 jury is preserved in any case in which the plaintiff is seeking  
138 actual or punitive damages.

139 Section 10. Section 760.08, Florida Statutes, is amended to  
140 read:

141 760.08 Discrimination in places of public accommodation.—  
142 All persons are entitled to the full and equal enjoyment of the  
143 goods, services, facilities, privileges, advantages, and  
144 accommodations of any place of public accommodation without  
145 discrimination or segregation on the ground of race, color,  
146 national origin, sex, sexual orientation, gender identity,  
147 pregnancy, handicap, familial status, or religion.

148 Section 11. Subsections (1) and (2), paragraphs (a) and (b)  
149 of subsection (3), subsections (4), (5), and (6), paragraph (a)  
150 of subsection (8), and subsection (9) of section 760.10, Florida  
151 Statutes, are amended, and subsection (10) of that section is  
152 republished, to read:

153 760.10 Unlawful employment practices.—

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

155 (a) To discharge or to fail or refuse to hire any



423392

156 individual, or otherwise to discriminate against any individual  
157 with respect to compensation, terms, conditions, or privileges  
158 of employment, because of such individual's race, color,  
159 religion, sex, pregnancy, national origin, age, sexual  
160 orientation, gender identity, handicap, or marital status.

161 (b) To limit, segregate, or classify employees or  
162 applicants for employment in any way that ~~which~~ would deprive or  
163 tend to deprive any individual of employment opportunities, or  
164 adversely affect any individual's status as an employee, because  
165 of such individual's race, color, religion, sex, pregnancy,  
166 national origin, age, sexual orientation, gender identity,  
167 handicap, or marital status.

168 (2) It is an unlawful employment practice for an employment  
169 agency to fail or refuse to refer for employment, or otherwise  
170 to discriminate against, any individual because of race, color,  
171 religion, sex, pregnancy, national origin, age, sexual  
172 orientation, gender identity, handicap, or marital status or to  
173 classify or refer for employment any individual on the basis of  
174 race, color, religion, sex, pregnancy, national origin, age,  
175 sexual orientation, gender identity, handicap, or marital  
176 status.

177 (3) It is an unlawful employment practice for a labor  
178 organization:

179 (a) To exclude or to expel from its membership, or  
180 otherwise to discriminate against, any individual because of  
181 race, color, religion, sex, pregnancy, national origin, age,  
182 sexual orientation, gender identity, handicap, or marital  
183 status.

184 (b) To limit, segregate, or classify its membership or



423392

185 applicants for membership, or to classify or fail or refuse to  
186 refer for employment any individual, in any way that would  
187 deprive or tend to deprive any individual of employment  
188 opportunities, or adversely affect any individual's status as an  
189 employee or as an applicant for employment, because of such  
190 individual's race, color, religion, sex, pregnancy, national  
191 origin, age, sexual orientation, gender identity, handicap, or  
192 marital status.

193 (4) It is an unlawful employment practice for any employer,  
194 labor organization, or joint labor-management committee  
195 controlling apprenticeship or other training or retraining,  
196 including on-the-job training programs, to discriminate against  
197 any individual because of race, color, religion, sex, pregnancy,  
198 national origin, age, sexual orientation, gender identity,  
199 handicap, or marital status in admission to, or employment in,  
200 any program established to provide apprenticeship or other  
201 training.

202 (5) Whenever, in order to engage in a profession,  
203 occupation, or trade, it is required that a person receive a  
204 license, certification, or other credential; or become a member or  
205 an associate of any club, association, or other organization; or  
206 or pass any examination, it is an unlawful employment practice  
207 for any person to discriminate against any other person seeking  
208 such license, certification, or other credential; or seeking to  
209 become a member or associate of such club, association, or other  
210 organization; or seeking to take or pass such examination,  
211 because of such other person's race, color, religion, sex,  
212 pregnancy, national origin, age, sexual orientation, gender  
213 identity, handicap, or marital status.





423392

214 (6) It is an unlawful employment practice for an employer,  
215 a labor organization, an employment agency, or a joint labor-  
216 management committee to print, or cause to be printed or  
217 published, any notice or advertisement relating to employment,  
218 membership, classification, referral for employment, or  
219 apprenticeship or other training which indicates, ~~indicating~~ any  
220 preference, limitation, specification, or discrimination, based  
221 on race, color, religion, sex, pregnancy, national origin, age,  
222 sexual orientation, gender identity, absence of handicap, or  
223 marital status.

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

228 (a) Take or fail to take any action on the basis of  
229 religion, sex, pregnancy, national origin, age, sexual  
230 orientation, gender identity, handicap, or marital status in  
231 those certain instances in which religion, sex, condition of  
232 pregnancy, national origin, age, sexual orientation, gender  
233 identity, absence of a particular handicap, or marital status is  
234 a bona fide occupational qualification reasonably necessary for  
235 the performance of the particular employment to which such  
236 action or inaction is related.

237 (9) (a) This section does ~~shall~~ not apply to any religious  
238 corporation, association, educational institution, or society  
239 that ~~which~~ conditions opportunities in the area of employment or  
240 public accommodation to members of that religious corporation,  
241 association, educational institution, or society or to persons  
242 who subscribe to its tenets or beliefs.



423392

243           **(b)** This section does ~~shall~~ not prohibit a religious  
244 corporation, association, educational institution, or society  
245 from giving preference in employment to individuals of a  
246 particular religion to perform work connected with the carrying  
247 on by such corporations, associations, educational institutions,  
248 or societies of its various activities.

249           **(c)** This section and s. 760.08 do not limit the free  
250 exercise of religion guaranteed by the United States  
251 Constitution and the State Constitution.

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

257           Section 12. Section 760.22, Florida Statutes, is amended to  
258 read:

259           760.22 Definitions.—As used in ss. 760.20-760.37, the term:

260           (1) "Commission" means the Florida Commission on Human  
261 Relations.

262           (2) "Covered multifamily dwelling" means:

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

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

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

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



423392

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

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

277 (a) A parent or other person having legal custody of such  
278 individual; or

279 (b) A designee of a parent or other person having legal  
280 custody, with the written permission of such parent or other  
281 person.

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

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

285 (8)~~(7)~~ "Handicap" means:

286 (a) A ~~person has a~~ physical or mental impairment that ~~which~~  
287 substantially limits one or more major life activities of a  
288 person who has, or he or she has a record of having, or is  
289 regarded as having that, ~~such~~ physical or mental impairment; or

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

292 (9)~~(8)~~ "Person" includes one or more individuals,  
293 corporations, partnerships, associations, labor organizations,  
294 legal representatives, mutual companies, joint-stock companies,  
295 trusts, unincorporated organizations, trustees, trustees in  
296 bankruptcy, receivers, and fiduciaries.

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

299 (11)~~(9)~~ "Substantially equivalent" means an administrative  
300 subdivision of the State of Florida meeting the requirements of



423392

301 24 C.F.R. part 115, s. 115.6.

302 ~~(12)~~~~(10)~~ "To rent" includes to lease, to sublease, to let,  
303 and otherwise to grant for a consideration the right to occupy  
304 premises not owned by the occupant.

305 Section 13. Subsections (1) through (5) of section 760.23,  
306 Florida Statutes, are amended to read:

307 760.23 Discrimination in the sale or rental of housing and  
308 other prohibited practices.—

309 (1) It is unlawful to refuse to sell or rent after the  
310 making of a bona fide offer, to refuse to negotiate for the sale  
311 or rental of, or otherwise to make unavailable or deny a  
312 dwelling to any person because of race, color, national origin,  
313 sex, sexual orientation, gender identity, handicap, familial  
314 status, or religion.

315 (2) It is unlawful to discriminate against any person in  
316 the terms, conditions, or privileges of sale or rental of a  
317 dwelling, or in the provision of services or facilities in  
318 connection therewith, because of race, color, national origin,  
319 sex, sexual orientation, gender identity, handicap, familial  
320 status, or religion.

321 (3) It is unlawful to make, print, or publish, or cause to  
322 be made, printed, or published, any notice, statement, or  
323 advertisement with respect to the sale or rental of a dwelling  
324 that indicates any preference, limitation, or discrimination  
325 based on race, color, national origin, sex, sexual orientation,  
326 gender identity, handicap, familial status, or religion or an  
327 intention to make any such preference, limitation, or  
328 discrimination.

329 (4) It is unlawful to represent to any person because of



423392

330 race, color, national origin, sex, sexual orientation, gender  
331 identity, handicap, familial status, or religion that any  
332 dwelling is not available for inspection, sale, or rental when  
333 such dwelling is in fact so available.

334 (5) It is unlawful, for profit, to induce or attempt to  
335 induce any person to sell or rent any dwelling by a  
336 representation regarding the entry or prospective entry into the  
337 neighborhood of a person or persons of a particular race, color,  
338 national origin, sex, sexual orientation, gender identity,  
339 handicap, familial status, or religion.

340 Section 14. Section 760.24, Florida Statutes, is amended to  
341 read:

342 760.24 Discrimination in the provision of brokerage  
343 services.—It is unlawful to deny any person access to, or  
344 membership or participation in, any multiple-listing service,  
345 real estate brokers' organization, or other service,  
346 organization, or facility relating to the business of selling or  
347 renting dwellings, or to discriminate against him or her in the  
348 terms or conditions of such access, membership, or  
349 participation, because ~~on account~~ of race, color, national  
350 origin, sex, sexual orientation, gender identity, handicap,  
351 familial status, or religion.

352 Section 15. Subsection (1) and paragraph (a) of subsection  
353 (2) of section 760.25, Florida Statutes, are amended to read:

354 760.25 Discrimination in the financing of housing or in  
355 residential real estate transactions.—

356 (1) It is unlawful for any bank, building and loan  
357 association, insurance company, or other corporation,  
358 association, firm, or enterprise the business of which consists



423392

359 in whole or in part of the making of commercial real estate  
360 loans to deny a loan or other financial assistance to a person  
361 applying for the loan for the purpose of purchasing,  
362 constructing, improving, repairing, or maintaining a dwelling,  
363 or to discriminate against him or her in the fixing of the  
364 amount, interest rate, duration, or other term or condition of  
365 such loan or other financial assistance, because of the race,  
366 color, national origin, sex, sexual orientation, gender  
367 identity, handicap, familial status, or religion of such person  
368 or of any person associated with him or her in connection with  
369 such loan or other financial assistance or the purposes of such  
370 loan or other financial assistance, or because of the race,  
371 color, national origin, sex, sexual orientation, gender  
372 identity, handicap, familial status, or religion of the present  
373 or prospective owners, lessees, tenants, or occupants of the  
374 dwelling or dwellings in relation to which such loan or other  
375 financial assistance is to be made or given.

376 (2) (a) It is unlawful for any person or entity whose  
377 business includes engaging in residential real estate  
378 transactions to discriminate against any person in making  
379 available such a transaction, or in the terms or conditions of  
380 such a transaction, because of race, color, national origin,  
381 sex, sexual orientation, gender identity, handicap, familial  
382 status, or religion.

383 Section 16. Section 760.26, Florida Statutes, is amended to  
384 read:

385 760.26 Prohibited discrimination in land use decisions and  
386 in permitting of development.—It is unlawful to discriminate in  
387 land use decisions or in the permitting of development based on



423392

388 race, color, national origin, sex, sexual orientation, gender  
389 identity, disability, familial status, religion, or, except as  
390 otherwise provided by law, the source of financing of a  
391 development or proposed development.

392 Section 17. Paragraph (a) of subsection (5) of section  
393 760.29, Florida Statutes, is amended to read:

394 760.29 Exemptions.—

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

396 (a) Prohibits a person engaged in the business of  
397 furnishing appraisals of real property from taking into  
398 consideration factors other than race, color, national origin,  
399 sex, sexual orientation, gender identity, handicap, familial  
400 status, or religion.

401 Section 18. Subsection (1) of section 760.60, Florida  
402 Statutes, is amended to read:

403 760.60 Discriminatory practices of certain clubs  
404 prohibited; remedies.—

405 (1) It is unlawful for a person to discriminate against any  
406 individual because of race, color, religion, gender, national  
407 origin, handicap, age above the age of 21, sexual orientation,  
408 gender identity, or marital status in evaluating an application  
409 for membership in a club that has more than 400 members, that  
410 provides regular meal service, and that regularly receives  
411 payment for dues, fees, use of space, facilities, services,  
412 meals, or beverages directly or indirectly from nonmembers for  
413 business purposes. It is unlawful for a person, on behalf of  
414 such a club, to publish, circulate, issue, display, post, or  
415 mail any advertisement, notice, or solicitation that contains a  
416 statement to the effect that the accommodations, advantages,



417 facilities, membership, or privileges of the club are denied to  
418 any individual because of race, color, religion, gender,  
419 national origin, handicap, age above the age of 21, sexual  
420 orientation, gender identity, or marital status. This subsection  
421 does not apply to fraternal or benevolent organizations, ethnic  
422 clubs, or religious organizations where business activity is not  
423 prevalent.

424 Section 19. Paragraph (e) of subsection (1) of section  
425 419.001, Florida Statutes, is amended to read:

426 419.001 Site selection of community residential homes.—

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

428 (e) "Resident" means any of the following: a frail elder as  
429 defined in s. 429.65; a person who has a handicap as defined in  
430 s. 760.22(8)(a) ~~s. 760.22(7)(a)~~; a person who has a  
431 developmental disability as defined in s. 393.063; a  
432 nondangerous person who has a mental illness as defined in s.  
433 394.455; or a child who is found to be dependent as defined in  
434 s. 39.01 or s. 984.03, or a child in need of services as defined  
435 in s. 984.03 or s. 985.03.

436  
437 ===== T I T L E A M E N D M E N T =====

438 And the title is amended as follows:

439 Delete lines 2 - 17

440 and insert:

441 An act relating to prohibited discrimination; creating  
442 the "Senator Helen Gordon Davis Fair Pay Protection  
443 Act"; amending s. 448.07, F.S.; defining terms;  
444 prohibiting an employer from providing less favorable  
445 employment opportunities to employees based on their





423392

446 sex; providing exceptions; revising applicability;  
447 providing civil penalties; amending s. 448.102, F.S.;  
448 prohibiting an employer from taking certain employment  
449 actions against employees; creating s. 448.111, F.S.;  
450 prohibiting an employer from engaging in certain  
451 activities relating to wages and benefits; prohibiting  
452 an employer from requiring employees to sign certain  
453 waivers and documents; providing applicability;  
454 authorizing an employer to confirm wage or salary  
455 history under certain conditions; amending s. 509.092,  
456 F.S.; adding sexual orientation and gender identity as  
457 impermissible grounds for discrimination in public  
458 lodging establishments and public food service  
459 establishments; providing an exception for  
460 constitutionally protected free exercise of religion;  
461 amending s. 760.01, F.S.; revising the purposes of the  
462 Florida Civil Rights Act of 1992 to conform to changes  
463 made by the act; reordering and amending s. 760.02,  
464 F.S.; revising the definition of the term "employer";  
465 defining the terms "gender identity" and "sexual  
466 orientation"; amending s. 760.05, F.S.; revising the  
467 functions of the Florida Commission on Human Relations  
468 to conform to changes made by the act; amending s.  
469 760.07, F.S.; revising provisions regarding remedies  
470 for unlawful discrimination to include discrimination  
471 based on sexual orientation and gender identity to  
472 conform to changes made by the act; amending s.  
473 760.08, F.S.; adding sexual orientation and gender  
474 identity as impermissible grounds for discrimination



423392

475 in places of public accommodation; amending s. 760.10,  
476 F.S.; adding sexual orientation and gender identity as  
477 impermissible grounds for discrimination with respect  
478 to specified unlawful employment practices; providing  
479 an exception for constitutionally protected free  
480 exercise of religion; amending s. 760.22, F.S.;  
481 defining the terms "gender identity" and "sexual  
482 orientation" for purposes of the Fair Housing Act;  
483 amending ss. 760.23, 760.24, 760.25, and 760.26, F.S.;  
484 adding sexual orientation and gender identity as  
485 impermissible grounds for discrimination with respect  
486 to the sale or rental of housing, the provision of  
487 brokerage services, the financing of housing or in  
488 residential real estate transactions, and land use  
489 decisions or permitting of development, respectively;  
490 amending s. 760.29, F.S.; revising an exemption from  
491 the Fair Housing Act regarding the appraisal of real  
492 property to conform to changes made by the act;  
493 amending s. 760.60, F.S.; adding sexual orientation  
494 and gender identity as impermissible grounds for  
495 discrimination with respect to practices of certain  
496 clubs; amending s. 419.001, F.S.; conforming a cross-  
497 reference; providing an effective date