

By Senator Rouson

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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           stemming from violations of the Florida Civil Rights  
 6           Act of 1992; amending s. 760.34, F.S.; revising the  
 7           conditions under which an aggrieved person may  
 8           commence a civil action in any appropriate court  
 9           against a specified respondent to enforce specified  
 10          rights; providing that the aggrieved person does not  
 11          need to take specified actions before bringing a civil  
 12          action; making technical changes; amending s. 760.35,  
 13          F.S.; authorizing, rather than requiring, a civil  
 14          action to commence within 2 years after an alleged  
 15          discriminatory housing practice; authorizing an  
 16          aggrieved person to commence a civil action regardless  
 17          of whether a specified complaint has been filed and  
 18          regardless of the status of any such complaint;  
 19          prohibiting an aggrieved person from filing a  
 20          specified action in certain circumstances; providing  
 21          an exception; prohibiting an aggrieved person from  
 22          commencing a specified civil action if an  
 23          administrative law judge has commenced a hearing on  
 24          the record on the allegation; providing an effective  
 25          date.

26  
 27 Be It Enacted by the Legislature of the State of Florida:

28  
 29           Section 1. Section 760.07, Florida Statutes, is amended to  
 30           read:

31           760.07 Remedies for unlawful discrimination.—Any violation  
 32           of any Florida statute that makes ~~making~~ unlawful discrimination

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

47 Section 2. Subsections (2) and (4) of section 760.34,  
48 Florida Statutes, are amended, and subsections (5) and (6) of  
49 that section are republished, to read:

50 760.34 Enforcement.—

51 (2) Any person who files a complaint under subsection (1)  
52 must do so ~~be filed~~ within 1 year after the alleged  
53 discriminatory housing practice occurred. The complaint must be  
54 in writing and shall state the facts upon which the allegations  
55 of a discriminatory housing practice are based. A complaint may  
56 be reasonably and fairly amended at any time. A respondent may  
57 file an answer to the complaint against him or her and, with the  
58 leave of the commission, which shall be granted whenever it  
59 would be reasonable and fair to do so, may amend his or her  
60 answer at any time. Both the complaint and the answer must ~~shall~~  
61 be verified.

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62 (4) ~~If, within 180 days after a complaint is filed with the~~  
63 ~~commission or within 180 days after expiration of any period of~~  
64 ~~reference under subsection (3), the commission has been unable~~  
65 ~~to obtain voluntary compliance with ss. 760.20-760.37, The~~  
66 ~~person~~ aggrieved person may commence a civil action in any  
67 appropriate court against the respondent named in the complaint  
68 or petition for an administrative determination pursuant to s.  
69 760.35 to enforce the rights granted or protected by ss. 760.20-  
70 760.37 and is not required to petition for an administrative  
71 hearing or exhaust administrative remedies before commencing  
72 such action. If, as a result of its investigation under  
73 subsection (1), the commission finds there is reasonable cause  
74 to believe that a discriminatory housing practice has occurred,  
75 at the request of the person aggrieved, the Attorney General may  
76 bring an action in the name of the state on behalf of the  
77 aggrieved person to enforce the provisions of ss. 760.20-760.37.

78 (5) In any proceeding brought pursuant to this section or  
79 s. 760.35, the burden of proof is on the complainant.

80 (6) Whenever an action filed in court pursuant to this  
81 section or s. 760.35 comes to trial, the commission shall  
82 immediately terminate all efforts to obtain voluntary  
83 compliance.

84 Section 3. Section 760.35, Florida Statutes, is amended to  
85 read:

86 760.35 Civil actions and relief; administrative  
87 procedures.—

88 (1) An aggrieved person may commence a civil action ~~shall~~  
89 ~~be commenced~~ no later than 2 years after an alleged  
90 discriminatory housing practice has occurred. However, the court

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91 shall continue a civil case brought pursuant to this section or  
92 s. 760.34 from time to time before bringing it to trial if the  
93 court believes that the conciliation efforts of the commission  
94 or local agency are likely to result in satisfactory settlement  
95 of the discriminatory housing practice complained of in the  
96 complaint made to the commission or to the local agency and  
97 which practice forms the basis for the action in court. Any  
98 sale, encumbrance, or rental consummated prior to the issuance  
99 of any court order issued under the authority of ss. 760.20-  
100 760.37 and involving a bona fide purchaser, encumbrancer, or  
101 tenant without actual notice of the existence of the filing of a  
102 complaint or civil action under the provisions of ss. 760.20-  
103 760.37 shall not be affected.

104 (2) An aggrieved person may commence a civil action under  
105 this section regardless of whether a complaint has been filed  
106 under s. 760.34(1) and regardless of the status of any such  
107 complaint. If the commission has obtained a conciliation  
108 agreement with the consent of an aggrieved person under s.  
109 760.36, the aggrieved person may not file any action under this  
110 section regarding the alleged discriminatory housing practice  
111 that forms the basis for the complaint except for the purpose of  
112 enforcing the terms of such an agreement.

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

117 (4)~~(2)~~ If the court finds that a discriminatory housing  
118 practice has occurred, it shall issue an order prohibiting the  
119 practice and providing affirmative relief from the effects of

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120 the practice, including injunctive and other equitable relief,  
121 actual and punitive damages, and reasonable attorney ~~attorney's~~  
122 fees and costs.

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

126 1. The commission may institute an administrative  
127 proceeding under chapter 120; or

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

131 (b) Administrative hearings shall be conducted pursuant to  
132 ss. 120.569 and 120.57(1). The respondent must be served written  
133 notice by certified mail. If the administrative law judge finds  
134 that a discriminatory housing practice has occurred or is about  
135 to occur, he or she shall issue a recommended order to the  
136 commission prohibiting the practice and recommending affirmative  
137 relief from the effects of the practice, including quantifiable  
138 damages and reasonable attorney ~~attorney's~~ fees and costs. The  
139 commission may adopt, reject, or modify a recommended order only  
140 as provided under s. 120.57(1). Judgment for the amount of  
141 damages and costs assessed pursuant to a final order by the  
142 commission may be entered in any court having jurisdiction  
143 thereof and may be enforced as any other judgment.

144 (c) The district courts of appeal may, upon the filing of  
145 appropriate notices of appeal, review final orders of the  
146 commission pursuant to s. 120.68. Costs or fees may not be  
147 assessed against the commission in any appeal from a final order  
148 issued by the commission under this subsection. Unless

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149 specifically ordered by the court, the commencement of an appeal  
150 does not suspend or stay an order of the commission.

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

153 Section 4. This act shall take effect upon becoming a law.