

By Senator Rouson

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1                                   A bill to be entitled  
2       An act relating to prohibited discrimination;  
3       providing a short title; amending s. 509.092, F.S.;  
4       adding sexual orientation and gender identity as  
5       impermissible grounds for discrimination in public  
6       lodging establishments and public food service  
7       establishments; providing an exception for  
8       constitutionally protected free exercise of religion;  
9       amending s. 760.01, F.S.; revising the purposes of the  
10      Florida Civil Rights Act of 1992 to conform to changes  
11      made by the act; reordering and amending s. 760.02,  
12      F.S.; defining the terms "gender identity" and "sexual  
13      orientation"; amending s. 760.05, F.S.; revising the  
14      functions of the Florida Commission on Human Relations  
15      to conform to changes made by the act; amending s.  
16      760.07, F.S.; revising provisions regarding remedies  
17      for unlawful discrimination to include discrimination  
18      based on sexual orientation and gender identity to  
19      conform to changes made by the act; amending s.  
20      760.08, F.S.; adding sexual orientation and gender  
21      identity as impermissible grounds for discrimination  
22      in places of public accommodation; amending s. 760.10,  
23      F.S.; adding sexual orientation and gender identity as  
24      impermissible grounds for discrimination with respect  
25      to specified unlawful employment practices; providing  
26      an exception for constitutionally protected free  
27      exercise of religion; amending s. 760.22, F.S.;  
28      defining the terms "gender identity" and "sexual  
29      orientation" for purposes of the Fair Housing Act;

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30 amending ss. 760.23, 760.24, 760.25, and 760.26, F.S.;

31 adding sexual orientation and gender identity as

32 impermissible grounds for discrimination with respect

33 to the sale or rental of housing, the provision of

34 brokerage services, the financing of housing or in

35 residential real estate transactions, and land use

36 decisions or permitting of development, respectively;

37 amending s. 760.29, F.S.; revising an exemption from

38 the Fair Housing Act regarding the appraisal of real

39 property to conform to changes made by the act;

40 amending s. 760.60, F.S.; adding sexual orientation

41 and gender identity as impermissible grounds for

42 discrimination with respect to practices of certain

43 clubs; amending s. 419.001, F.S.; conforming a cross-

44 reference; providing an effective date.

45

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

47

48 Section 1. This act may be cited as the "Florida

49 Competitive Workforce Act."

50 Section 2. Section 509.092, Florida Statutes, is amended to

51 read:

52 509.092 Public lodging establishments and public food

53 service establishments; rights as private enterprises.—

54 (1) Public lodging establishments and public food service

55 establishments are private enterprises, and the operator has the

56 right to refuse accommodations or service to any person who is

57 objectionable or undesirable to the operator, but such refusal

58 may not be based upon race, creed, color, sex, pregnancy,

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59 physical disability, sexual orientation, gender identity, or  
60 national origin.

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

64 (3) This section does not limit the free exercise of  
65 religion guaranteed by the United States Constitution and the  
66 State Constitution.

67 Section 3. Subsection (1) of section 760.01, Florida  
68 Statutes, is republished, and subsection (2) of that section is  
69 amended, to read:

70 760.01 Purposes; construction; title.—

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

73 (2) The general purposes of the Florida Civil Rights Act of  
74 1992 are to secure for all individuals within the state freedom  
75 from discrimination because of race, color, religion, sex,  
76 pregnancy, national origin, age, sexual orientation, gender  
77 identity, handicap, or marital status and thereby to protect  
78 their interest in personal dignity, to make available to the  
79 state their full productive capacities, to secure the state  
80 against domestic strife and unrest, to preserve the public  
81 safety, health, and general welfare, and to promote the  
82 interests, rights, and privileges of individuals within the  
83 state.

84 Section 4. Section 760.02, Florida Statutes, is reordered  
85 and amended to read:

86 760.02 Definitions.—For the purposes of ss. 760.01-760.11  
87 and 509.092, the term:

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88        (7)~~(1)~~ "Florida Civil Rights Act of 1992" means ss. 760.01-  
89 760.11 and 509.092.

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

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

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

96        (10)~~(5)~~ "National origin" includes ancestry.

97        (11)~~(6)~~ "Person" includes an individual, association,  
98 corporation, joint apprenticeship committee, joint-stock  
99 company, labor union, legal representative, mutual company,  
100 partnership, receiver, trust, trustee in bankruptcy, or  
101 unincorporated organization; any other legal or commercial  
102 entity; the state; or any governmental entity or agency.

103        (5)~~(7)~~ "Employer" means any person employing 15 or more  
104 employees for each working day in each of 20 or more calendar  
105 weeks in the current or preceding calendar year, and any agent  
106 of such a person.

107        (6)~~(8)~~ "Employment agency" means any person regularly  
108 undertaking, with or without compensation, to procure employees  
109 for an employer or to procure for employees opportunities to  
110 work for an employer, and includes an agent of such a person.

111        (8) "Gender identity" means gender-related identity,  
112 appearance, or behavior, regardless of whether such gender-  
113 related identity, appearance, or behavior is different from that  
114 traditionally associated with the person's physiology or  
115 assigned sex at birth, which can be shown by the person  
116 providing evidence, including, but not limited to:

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

119 (b) Consistent and uniform assertion of the gender-related  
120 identity; or

121 (c) Other evidence that the gender-related identity is a  
122 sincerely held part of the person's core identity and is not  
123 being asserted for an improper purpose.

124 (9) "Labor organization" means any organization that ~~which~~  
125 exists for the purpose, in whole or in part, of collective  
126 bargaining or of dealing with employers concerning grievances,  
127 terms or conditions of employment, or other mutual aid or  
128 protection in connection with employment.

129 (1) ~~(10)~~ "Aggrieved person" means any person who files a  
130 complaint with the ~~Human Relations~~ commission.

131 (12) ~~(11)~~ "Public accommodations" means places of public  
132 accommodation, lodgings, facilities principally engaged in  
133 selling food for consumption on the premises, gasoline stations,  
134 places of exhibition or entertainment, and other covered  
135 establishments. Each of the following establishments which  
136 serves the public is a place of public accommodation within the  
137 meaning of this section:

138 (a) Any inn, hotel, motel, or other establishment that  
139 ~~which~~ provides lodging to transient guests, other than an  
140 establishment located within a building that ~~which~~ contains not  
141 more than four rooms for rent or hire and that ~~which~~ is actually  
142 occupied by the proprietor of such establishment as his or her  
143 residence.

144 (b) Any restaurant, cafeteria, lunchroom, lunch counter,  
145 soda fountain, or other facility principally engaged in selling

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146 food for consumption on the premises, including, but not limited  
147 to, any such facility located on the premises of any retail  
148 establishment, or any gasoline station.

149 (c) Any motion picture theater, theater, concert hall,  
150 sports arena, stadium, or other place of exhibition or  
151 entertainment.

152 (d) Any establishment that ~~which~~ is physically located  
153 within the premises of any establishment otherwise covered by  
154 this subsection, or within the premises of which is physically  
155 located any such covered establishment, and that ~~which~~ holds  
156 itself out as serving patrons of such covered establishment.

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

159 Section 5. Section 760.05, Florida Statutes, is amended to  
160 read:

161 760.05 Functions of the commission.—The commission shall  
162 promote and encourage fair treatment and equal opportunity for  
163 all persons regardless of race, color, religion, sex, pregnancy,  
164 national origin, age, sexual orientation, gender identity,  
165 handicap, or marital status and mutual understanding and respect  
166 among all members of society. ~~The commission all-economic,~~  
167 ~~social, racial, religious, and ethnic groups;~~ and shall endeavor  
168 to eliminate discrimination against, and antagonism between,  
169 persons on the basis of race, color, religion, sex, pregnancy,  
170 national origin, age, sexual orientation, gender identity,  
171 handicap, or marital status ~~religious, racial, and ethnic groups~~  
172 ~~and their members.~~

173 Section 6. Section 760.07, Florida Statutes, is amended to  
174 read:

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175           760.07 Remedies for unlawful discrimination.—Any violation  
176 of any state law ~~Florida statute~~ making unlawful discrimination  
177 because of race, color, religion, gender, pregnancy, national  
178 origin, age, sexual orientation, gender identity, handicap, or  
179 marital status in the areas of education, employment, housing,  
180 or public accommodations gives rise to a cause of action for all  
181 relief and damages described in s. 760.11(5), unless greater  
182 damages are expressly provided for. If the statute prohibiting  
183 unlawful discrimination provides an administrative remedy, the  
184 action for equitable relief and damages provided for in this  
185 section may be initiated only after the plaintiff has exhausted  
186 his or her administrative remedy. The term “public  
187 accommodations” does not include lodge halls or other similar  
188 facilities of private organizations which are made available for  
189 public use occasionally or periodically. The right to trial by  
190 jury is preserved in any case in which the plaintiff is seeking  
191 actual or punitive damages.

192           Section 7. Section 760.08, Florida Statutes, is amended to  
193 read:

194           760.08 Discrimination in places of public accommodation.—  
195 All persons are entitled to the full and equal enjoyment of the  
196 goods, services, facilities, privileges, advantages, and  
197 accommodations of any place of public accommodation without  
198 discrimination or segregation on the ground of race, color,  
199 national origin, sex, sexual orientation, gender identity,  
200 pregnancy, handicap, familial status, or religion.

201           Section 8. Subsections (1) and (2), paragraphs (a) and (b)  
202 of subsection (3), subsections (4), (5), and (6), paragraph (a)  
203 of subsection (8), and subsection (9) of section 760.10, Florida

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204 Statutes, are amended, and subsection (10) of that section is  
205 republished, to read:

206 760.10 Unlawful employment practices.—

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

208 (a) To discharge or to fail or refuse to hire any  
209 individual, or otherwise to discriminate against any individual  
210 with respect to compensation, terms, conditions, or privileges  
211 of employment, because of such individual's race, color,  
212 religion, sex, pregnancy, national origin, age, sexual  
213 orientation, gender identity, handicap, or marital status.

214 (b) To limit, segregate, or classify employees or  
215 applicants for employment in any way that ~~which~~ would deprive or  
216 tend to deprive any individual of employment opportunities, or  
217 adversely affect any individual's status as an employee, because  
218 of such individual's race, color, religion, sex, pregnancy,  
219 national origin, age, sexual orientation, gender identity,  
220 handicap, or marital status.

221 (2) It is an unlawful employment practice for an employment  
222 agency to fail or refuse to refer for employment, or otherwise  
223 to discriminate against, any individual because of race, color,  
224 religion, sex, pregnancy, national origin, age, sexual  
225 orientation, gender identity, handicap, or marital status or to  
226 classify or refer for employment any individual on the basis of  
227 race, color, religion, sex, pregnancy, national origin, age,  
228 sexual orientation, gender identity, handicap, or marital  
229 status.

230 (3) It is an unlawful employment practice for a labor  
231 organization:

232 (a) To exclude or to expel from its membership, or



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233 otherwise to discriminate against, any individual because of  
234 race, color, religion, sex, pregnancy, national origin, age,  
235 sexual orientation, gender identity, handicap, or marital  
236 status.

237 (b) To limit, segregate, or classify its membership or  
238 applicants for membership, or to classify or fail or refuse to  
239 refer for employment any individual, in any way that would  
240 deprive or tend to deprive any individual of employment  
241 opportunities, or adversely affect any individual's status as an  
242 employee or as an applicant for employment, because of such  
243 individual's race, color, religion, sex, pregnancy, national  
244 origin, age, sexual orientation, gender identity, handicap, or  
245 marital status.

246 (4) It is an unlawful employment practice for any employer,  
247 labor organization, or joint labor-management committee  
248 controlling apprenticeship or other training or retraining,  
249 including on-the-job training programs, to discriminate against  
250 any individual because of race, color, religion, sex, pregnancy,  
251 national origin, age, sexual orientation, gender identity,  
252 handicap, or marital status in admission to, or employment in,  
253 any program established to provide apprenticeship or other  
254 training.

255 (5) Whenever, in order to engage in a profession,  
256 occupation, or trade, it is required that a person receive a  
257 license, certification, or other credential;~~;~~ become a member or  
258 an associate of any club, association, or other organization;~~;~~  
259 or pass any examination, it is an unlawful employment practice  
260 for any person to discriminate against any other person seeking  
261 such license, certification, or other credential;~~;~~ seeking to

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262 become a member or associate of such club, association, or other  
263 organization;~~7~~ or seeking to take or pass such examination,  
264 because of such other person's race, color, religion, sex,  
265 pregnancy, national origin, age, sexual orientation, gender  
266 identity, handicap, or marital status.

267 (6) It is an unlawful employment practice for an employer,  
268 a labor organization, an employment agency, or a joint labor-  
269 management committee to print, or cause to be printed or  
270 published, any notice or advertisement relating to employment,  
271 membership, classification, referral for employment, or  
272 apprenticeship or other training which indicates,~~indicating~~ any  
273 preference, limitation, specification, or discrimination~~7~~ based  
274 on race, color, religion, sex, pregnancy, national origin, age,  
275 sexual orientation, gender identity, absence of handicap, or  
276 marital status.

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

281 (a) Take or fail to take any action on the basis of  
282 religion, sex, pregnancy, national origin, age, sexual  
283 orientation, gender identity, handicap, or marital status in  
284 those certain instances in which religion, sex, condition of  
285 pregnancy, national origin, age, sexual orientation, gender  
286 identity, absence of a particular handicap, or marital status is  
287 a bona fide occupational qualification reasonably necessary for  
288 the performance of the particular employment to which such  
289 action or inaction is related.

290 (9) (a) This section does ~~shall~~ not apply to any religious

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291 corporation, association, educational institution, or society  
292 that ~~which~~ conditions opportunities in the area of employment or  
293 public accommodation to members of that religious corporation,  
294 association, educational institution, or society or to persons  
295 who subscribe to its tenets or beliefs.

296 (b) This section does ~~shall~~ not prohibit a religious  
297 corporation, association, educational institution, or society  
298 from giving preference in employment to individuals of a  
299 particular religion to perform work connected with the carrying  
300 on by such corporations, associations, educational institutions,  
301 or societies of its various activities.

302 (c) This section and s. 760.08 do not limit the free  
303 exercise of religion guaranteed by the United States  
304 Constitution and the State Constitution.

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

310 Section 9. Section 760.22, Florida Statutes, is amended to  
311 read:

312 760.22 Definitions.—As used in ss. 760.20-760.37, the term:

313 (1) "Commission" means the Florida Commission on Human  
314 Relations.

315 (2) "Covered multifamily dwelling" means:

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

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

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

322 (4) "Dwelling" means any building or structure, or portion  
323 thereof, which is occupied as, or designed or intended for  
324 occupancy as, a residence by one or more families, and any  
325 vacant land that ~~which~~ is offered for sale or lease for the  
326 construction or location on the land of any such building or  
327 structure, or portion thereof.

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

330 (a) A parent or other person having legal custody of such  
331 individual; or

332 (b) A designee of a parent or other person having legal  
333 custody, with the written permission of such parent or other  
334 person.

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

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

338 (8) ~~(7)~~ "Handicap" means:

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

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

345 (9) ~~(8)~~ "Person" includes one or more individuals,  
346 corporations, partnerships, associations, labor organizations,  
347 legal representatives, mutual companies, joint-stock companies,  
348 trusts, unincorporated organizations, trustees, trustees in

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349 bankruptcy, receivers, and fiduciaries.

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

352 (11)~~(9)~~ "Substantially equivalent" means an administrative  
353 subdivision of the State of Florida meeting the requirements of  
354 24 C.F.R. part 115, s. 115.6.

355 (12)~~(10)~~ "To rent" includes to lease, to sublease, to let,  
356 and otherwise to grant for a consideration the right to occupy  
357 premises not owned by the occupant.

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

360 760.23 Discrimination in the sale or rental of housing and  
361 other prohibited practices.—

362 (1) It is unlawful to refuse to sell or rent after the  
363 making of a bona fide offer, to refuse to negotiate for the sale  
364 or rental of, or otherwise to make unavailable or deny a  
365 dwelling to any person because of race, color, national origin,  
366 sex, sexual orientation, gender identity, handicap, familial  
367 status, or religion.

368 (2) It is unlawful to discriminate against any person in  
369 the terms, conditions, or privileges of sale or rental of a  
370 dwelling, or in the provision of services or facilities in  
371 connection therewith, because of race, color, national origin,  
372 sex, sexual orientation, gender identity, handicap, familial  
373 status, or religion.

374 (3) It is unlawful to make, print, or publish, or cause to  
375 be made, printed, or published, any notice, statement, or  
376 advertisement with respect to the sale or rental of a dwelling  
377 that indicates any preference, limitation, or discrimination

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378 based on race, color, national origin, sex, sexual orientation,  
379 gender identity, handicap, familial status, or religion or an  
380 intention to make any such preference, limitation, or  
381 discrimination.

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

387 (5) It is unlawful, for profit, to induce or attempt to  
388 induce any person to sell or rent any dwelling by a  
389 representation regarding the entry or prospective entry into the  
390 neighborhood of a person or persons of a particular race, color,  
391 national origin, sex, sexual orientation, gender identity,  
392 handicap, familial status, or religion.

393 Section 11. Section 760.24, Florida Statutes, is amended to  
394 read:

395 760.24 Discrimination in the provision of brokerage  
396 services.—It is unlawful to deny any person access to, or  
397 membership or participation in, any multiple-listing service,  
398 real estate brokers' organization, or other service,  
399 organization, or facility relating to the business of selling or  
400 renting dwellings, or to discriminate against him or her in the  
401 terms or conditions of such access, membership, or  
402 participation, because ~~on account~~ of race, color, national  
403 origin, sex, sexual orientation, gender identity, handicap,  
404 familial status, or religion.

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

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407           760.25 Discrimination in the financing of housing or in  
408 residential real estate transactions.—

409           (1) It is unlawful for any bank, building and loan  
410 association, insurance company, or other corporation,  
411 association, firm, or enterprise the business of which consists  
412 in whole or in part of the making of commercial real estate  
413 loans to deny a loan or other financial assistance to a person  
414 applying for the loan for the purpose of purchasing,  
415 constructing, improving, repairing, or maintaining a dwelling,  
416 or to discriminate against him or her in the fixing of the  
417 amount, interest rate, duration, or other term or condition of  
418 such loan or other financial assistance, because of the race,  
419 color, national origin, sex, sexual orientation, gender  
420 identity, handicap, familial status, or religion of such person  
421 or of any person associated with him or her in connection with  
422 such loan or other financial assistance or the purposes of such  
423 loan or other financial assistance, or because of the race,  
424 color, national origin, sex, sexual orientation, gender  
425 identity, handicap, familial status, or religion of the present  
426 or prospective owners, lessees, tenants, or occupants of the  
427 dwelling or dwellings in relation to which such loan or other  
428 financial assistance is to be made or given.

429           (2) (a) It is unlawful for any person or entity whose  
430 business includes engaging in residential real estate  
431 transactions to discriminate against any person in making  
432 available such a transaction, or in the terms or conditions of  
433 such a transaction, because of race, color, national origin,  
434 sex, sexual orientation, gender identity, handicap, familial  
435 status, or religion.

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436 Section 13. Section 760.26, Florida Statutes, is amended to  
437 read:

438 760.26 Prohibited discrimination in land use decisions and  
439 in permitting of development.—It is unlawful to discriminate in  
440 land use decisions or in the permitting of development based on  
441 race, color, national origin, sex, sexual orientation, gender  
442 identity, disability, familial status, religion, or, except as  
443 otherwise provided by law, the source of financing of a  
444 development or proposed development.

445 Section 14. Paragraph (a) of subsection (5) of section  
446 760.29, Florida Statutes, is amended to read:

447 760.29 Exemptions.—

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

449 (a) Prohibits a person engaged in the business of  
450 furnishing appraisals of real property from taking into  
451 consideration factors other than race, color, national origin,  
452 sex, sexual orientation, gender identity, handicap, familial  
453 status, or religion.

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

456 760.60 Discriminatory practices of certain clubs  
457 prohibited; remedies.—

458 (1) It is unlawful for a person to discriminate against any  
459 individual because of race, color, religion, gender, national  
460 origin, handicap, age above the age of 21, sexual orientation,  
461 gender identity, or marital status in evaluating an application  
462 for membership in a club that has more than 400 members, that  
463 provides regular meal service, and that regularly receives  
464 payment for dues, fees, use of space, facilities, services,



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465 meals, or beverages directly or indirectly from nonmembers for  
466 business purposes. It is unlawful for a person, on behalf of  
467 such a club, to publish, circulate, issue, display, post, or  
468 mail any advertisement, notice, or solicitation that contains a  
469 statement to the effect that the accommodations, advantages,  
470 facilities, membership, or privileges of the club are denied to  
471 any individual because of race, color, religion, gender,  
472 national origin, handicap, age above the age of 21, sexual  
473 orientation, gender identity, or marital status. This subsection  
474 does not apply to fraternal or benevolent organizations, ethnic  
475 clubs, or religious organizations where business activity is not  
476 prevalent.

477 Section 16. Paragraph (e) of subsection (1) of section  
478 419.001, Florida Statutes, is amended to read:

479 419.001 Site selection of community residential homes.—

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

481 (e) "Resident" means any of the following: a frail elder as  
482 defined in s. 429.65; a person who has a handicap as defined in  
483 s. 760.22(8)(a) ~~s. 760.22(7)(a)~~; a person who has a  
484 developmental disability as defined in s. 393.063; a  
485 nondangerous person who has a mental illness as defined in s.  
486 394.455; or a child who is found to be dependent as defined in  
487 s. 39.01 or s. 984.03, or a child in need of services as defined  
488 in s. 984.03 or s. 985.03.

489 Section 17. This act shall take effect July 1, 2020.