

By Representative Hill

1                                   A bill to be entitled  
2           An act relating to the Human Relations  
3           Commission; amending s. 760.02, F.S.; changing  
4           the name of the Human Relations Commission to  
5           the Human Rights Commission; amending s.  
6           760.03, F.S.; authorizing and ratifying  
7           investigatory determinations by the executive  
8           director of the commission; amending s. 760.04,  
9           F.S.; conforming wording to name change;  
10          amending s. 760.07, F.S.; establishing  
11          guidelines whereby certain types of  
12          discrimination are not unlawful; amending s.  
13          760.11, F.S.; eliminating requirement for  
14          registered mail; authorizing referral of  
15          complaints to agencies of the United States;  
16          amending s. 760.22, F.S.; conforming wording to  
17          name change; amending s. 760.34, F.S.;  
18          authorizing the commission to bring actions to  
19          enforce the fair housing act; amending s.  
20          760.35, F.S.; revising statute of limitations  
21          for actions involving housing discrimination;  
22          amending ss. 760.36, 760.60, 110.112, 110.205,  
23          119.07, 553.77, F.S.; conforming wording to  
24          name change; ratifying referrals made by the  
25          commission; providing an effective date.

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

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29           Section 1. Subsections (2) and (10) of section 760.02,  
30   Florida Statutes, are amended to read:

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1           760.02 Definitions.--For the purposes of ss.  
2 760.01-760.11 and 509.092, the term:

3           (2) "Commission" means the Florida Commission on Human  
4 ~~<U>Rights Relations~~ created by s. 760.03.

5           (10) "Aggrieved person" means any person who files a  
6 complaint with the Human ~~Rights Relations~~ Commission.

7           Section 2. Subsections (1) and (7) of section 760.03,  
8 Florida Statutes, are amended to read:

9           760.03 Commission on Human ~~Rights Relations~~; staff.--

10           (1) There is ~~hereby~~ created the Florida Commission on  
11 Human ~~Rights Relations~~, comprised of 12 members appointed by  
12 the Governor, subject to confirmation by the Senate. The  
13 commission shall select one of its members to serve as  
14 chairperson for terms of 2 years.

15           (7) The commission shall appoint, and may remove, an  
16 executive director who, with the consent of the commission,  
17 may employ a deputy, attorneys, investigators, clerks, and  
18 such other personnel as may be necessary adequately to perform  
19 the functions of the commission, within budgetary limitations.

20 ~~<U>The executive director is authorized to make and issue~~  
21 investigatory determinations. Investigatory determinations  
22 made by the executive director on or after October 1, 1992,  
23 are ratified and declared lawful.

24           Section 3. The catchline of section 760.04, Florida  
25 Statutes, 1996 Supplement, is amended to read:

26           760.04 Commission on Human ~~Rights Relations~~, assigned  
27 to Department of Management Services.--The commission created  
28 by s. 760.03 is assigned to the Department of Management  
29 Services. The commission, in the performance of its duties  
30 pursuant to the Florida Civil Rights Act of 1992, shall not be  
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1 subject to control, supervision, or direction by the  
2 Department of Management Services.

3 Section 4. Section 760.07, Florida Statutes, is  
4 amended to read:

5 760.07 Remedies for unlawful discrimination.--

6 (1) Any violation of any Florida statute making  
7 unlawful discrimination because of race, color, religion,  
8 gender, national origin, age, handicap, or marital status in  
9 the areas of education, employment, housing, or public  
10 accommodations gives rise to a cause of action for all relief  
11 and damages described in s. 760.11(5), unless greater damages  
12 are expressly provided for. If the statute prohibiting  
13 unlawful discrimination provides an administrative remedy, the  
14 action for equitable relief and damages provided for in this  
15 section may be initiated only after the plaintiff has  
16 exhausted his administrative remedy. The term "public  
17 accommodations" does not include lodge halls or other similar  
18 facilities of private organizations which are made available  
19 for public use occasionally or periodically. The right to  
20 trial by jury is preserved in any case in which the plaintiff  
21 is seeking actual or punitive damages.

22 (2) Discrimination on the basis of handicap includes  
23 not making reasonable accommodations to the known physical or  
24 mental limitations of an otherwise qualified individual with a  
25 disability who is an applicant or an employee unless the  
26 covered entity can demonstrate that the accommodation would  
27 impose an undue hardship on the operation of the business or  
28 covered entity.

29 (3) Discrimination on the basis of sex includes  
30 discrimination because of or on the basis of pregnancy,  
31 childbirth, or related conditions.

1           Section 5. Subsections (1) and (2) of section 760.11,  
2 Florida Statutes, 1996 Supplement, are amended to read:

3           760.11 Administrative and civil remedies;  
4 construction.--

5           (1) Any person aggrieved by a violation of ss.  
6 760.01-760.10 may file a complaint with the commission within  
7 365 days of the alleged violation, naming the employer,  
8 employment agency, labor organization, or joint  
9 labor-management committee, or, in the case of an alleged  
10 violation of s. 760.10(5), the person responsible for the  
11 violation and describing the violation. Any person aggrieved  
12 by a violation of s. 509.092 may file a complaint with the  
13 commission within 365 days of the alleged violation naming the  
14 person responsible for the violation and describing the  
15 violation. The commission, a commissioner, or the Attorney  
16 General may in like manner file such a complaint. On the same  
17 day the complaint is filed with the commission, the commission  
18 shall clearly stamp on the face of the complaint the date the  
19 complaint was filed with the commission. The complaint shall  
20 contain a short and plain statement of the facts describing  
21 the violation and the relief sought. The commission may  
22 require additional information to be in the complaint. The  
23 commission, within 5 days of the complaint being filed, shall  
24 ~~by registered mail~~ send a copy of the complaint to the person  
25 who allegedly committed the violation. The person who  
26 allegedly committed the violation may file an answer to the  
27 complaint within 25 days of the date the complaint was filed  
28 with the commission. Any answer filed shall be mailed to the  
29 aggrieved person by the person filing the answer. Both the  
30 complaint and the answer shall be verified.

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1           (2) In the event that any other agency of the United  
2 States, the state, or ~~of~~ any other unit of government of the  
3 state has jurisdiction of the subject matter of any complaint  
4 filed with the commission and has legal authority to  
5 investigate the complaint, the commission may refer such  
6 complaint to such agency for an investigation. Referral of  
7 such a complaint by the commission shall not constitute agency  
8 action within the meaning of s. 120.52. In the event of any  
9 referral under this subsection, the commission shall accord  
10 substantial weight to any findings and conclusions of any such  
11 agency. The referral of a complaint by the commission to a  
12 local agency does not divest the commission's jurisdiction  
13 over the complaint.

14           Section 6. Subsection (1) of section 760.22, Florida  
15 Statutes, is amended to read:

16           760.22 Definitions.--As used in ss. 760.20-760.37, the  
17 term:

18           (1) "Commission" means the Florida Commission on Human  
19 ~~Relations~~ Rights Relations.

20           Section 7. Subsection (4) of section 760.34, Florida  
21 Statutes, 1996 Supplement, is amended to read:

22           760.34 Enforcement.--

23           (4) If, within 180 days after a complaint is filed  
24 with the commission or within 180 days after expiration of any  
25 period of reference under subsection (3), the commission has  
26 been unable to obtain voluntary compliance with ss.  
27 760.20-760.37, the person aggrieved may commence a civil  
28 action in any appropriate court against the respondent named  
29 in the complaint or petition for an administrative  
30 determination pursuant to s. 760.35 to enforce the rights  
31 granted or protected by ss. 760.20-760.37. If, as a result of

1 its investigation under subsection (1), the commission finds  
2 there is reasonable cause to believe that a discriminatory  
3 housing practice has occurred, at the request of the person  
4 aggrieved, the Attorney General or the Commission shall bring  
5 an action in the name of the state on behalf of the aggrieved  
6 person to enforce the provisions of ss. 760.20-760.37.

7 Section 8. Subsection (1) of section 760.35, Florida  
8 Statutes, 1996 Supplement, is amended to read:

9 760.35 Civil actions and relief; administrative  
10 procedures.--

11 (1) A civil action shall be commenced no later than 2  
12 years after an alleged discriminatory housing practice has  
13 occurred. The computation of the 2-year period may not  
14 include any time during which the complaint for administrative  
15 relief is pending before the commission. However, the court  
16 shall continue a civil case brought pursuant to this section  
17 or s. 760.34 from time to time before bringing it to trial if  
18 the court believes that the conciliation efforts of the  
19 commission or local agency are likely to result in  
20 satisfactory settlement of the discriminatory housing practice  
21 complained of in the complaint made to the commission or to  
22 the local agency and which practice forms the basis for the  
23 action in court. Any sale, encumbrance, or rental consummated  
24 prior to the issuance of any court order issued under the  
25 authority of ss. 760.20-760.37 and involving a bona fide  
26 purchaser, encumbrancer, or tenant without actual notice of  
27 the existence of the filing of a complaint or civil action  
28 under the provisions of ss. 760.20-760.37 shall not be  
29 affected.

30 Section 9. Section 760.36, Florida Statutes, is  
31 amended to read:

1           760.36 Conciliation agreements.--Any conciliation  
2 agreement arising out of conciliation efforts by the Florida  
3 Commission on Human Rights ~~Relations~~ pursuant to the Fair  
4 Housing Act must be agreed to by the respondent and the  
5 complainant and is subject to the approval of the commission.  
6 Notwithstanding the provisions of s. 760.11(11) and (12), each  
7 conciliation agreement arising out of a complaint filed under  
8 the Fair Housing Act shall be made public unless the  
9 complainant and the respondent otherwise agree and the  
10 commission determines that disclosure is not required to  
11 further the purposes of the Florida Fair Housing Act. The  
12 exemption from s. 119.07(1) specified in this subsection is  
13 subject to the Open Government Sunset Review Act in accordance  
14 with s. 119.14.

15           Section 10. Subsection (2) of section 760.60, Florida  
16 Statutes, is amended to read:

17           760.60 Discriminatory practices of certain clubs  
18 prohibited; remedies.--

19           (2) A person who has been discriminated against in  
20 violation of this act may file a complaint with the Commission  
21 on Human Rights ~~Relations~~ or with the Attorney General's  
22 Office of Civil Rights. A complaint must be in writing and  
23 must contain such information and be in such form as the  
24 commission requires. Upon receipt of a complaint, the  
25 commission or the Attorney General shall provide a copy to the  
26 person who represents the club. Within 30 days after  
27 receiving a complaint, the commission or the Attorney General  
28 shall investigate the alleged discrimination and give notice  
29 in writing to the person who filed the complaint if it intends  
30 to resolve the complaint. If the commission or the Attorney  
31 General decides to resolve the complaint, it shall attempt to

1 eliminate or correct the alleged discriminatory practices of a  
2 club by informal methods of conference, conciliation, and  
3 persuasion.

4 Section 11. Subsection (5) of section 110.112, Florida  
5 Statutes, 1996 Supplement, is amended to read:

6 110.112 Affirmative action; equal employment  
7 opportunity.--

8 (5) Any individual claiming to be aggrieved by an  
9 unlawful employment practice may file a complaint with the  
10 Florida Commission on Human Rights ~~Relations~~ as provided in s.  
11 760.10 ~~by s. 760.10(10)~~.

12 Section 12. Paragraph (m) of subsection (2) of section  
13 110.205, Florida Statutes, 1996 Supplement, is amended to  
14 read:

15 110.205 Career service; exemptions.--

16 (2) EXEMPT POSITIONS.--The exempt positions which are  
17 not covered by this part include the following, provided that  
18 no position, except for positions established for a limited  
19 period of time pursuant to paragraph (h), shall be exempted if  
20 the position reports to a position in the career service:

21 (m)1. In addition to those positions exempted by other  
22 paragraphs of this subsection, each department head may  
23 designate a maximum of 20 policymaking or managerial  
24 positions, as defined by the department and approved by the  
25 Administration Commission, as being exempt from the Career  
26 Service System. Career service employees who occupy a  
27 position designated as a position in the Selected Exempt  
28 Service under this paragraph shall have the right to remain in  
29 the Career Service System by opting to serve in a position not  
30 exempted by the employing agency. Unless otherwise fixed by  
31 law, the department shall set the salary and benefits of these



1 positions in accordance with the rules of the Selected Exempt  
2 Service; provided, however, that if the agency head determines  
3 that the general counsel, chief Cabinet aide, public  
4 information administrator or comparable position for a Cabinet  
5 officer, inspector general, or legislative affairs director  
6 has both policymaking and managerial responsibilities and if  
7 the department determines that any such position has both  
8 policymaking and managerial responsibilities, the salary and  
9 benefits for each such position shall be established by the  
10 department in accordance with the rules of the Senior  
11 Management Service.

12           2. If otherwise exempt, employees of the Public  
13 Employees Relations Commission, the Commission on Human Rights  
14 ~~Relations~~, and the Unemployment Appeals Commission, upon the  
15 certification of their respective commission heads, may be  
16 provided for under this paragraph as members of the Senior  
17 Management Service, if otherwise qualified. However, the  
18 deputy general counsels of the Public Employees Relations  
19 Commission shall be compensated as members of the Selected  
20 Exempt Service.

21           Section 13. Paragraphs (p) and (q) of subsection (3)  
22 of section 119.07, Florida Statutes, 1996 Supplement, are  
23 amended to read:

24           119.07 Inspection, examination, and duplication of  
25 records; exemptions.--

26           (3)

27           (p) All complaints and other records in the custody of  
28 any unit of local government which relate to a complaint of  
29 discrimination relating to race, color, religion, sex,  
30 national origin, age, handicap, marital status, sale or rental  
31 of housing, the provision of brokerage services, or the

1 financing of housing are exempt from the provisions of  
2 subsection (1) and s. 24(a), Art. I of the State Constitution  
3 until a finding is made relating to probable cause, the  
4 investigation of the complaint becomes inactive, or the  
5 complaint or other record is made part of the official record  
6 of any hearing or court proceeding. This provision shall not  
7 affect any function or activity of the Florida Commission on  
8 Human Rights ~~Relations~~. Any state or federal agency which is  
9 authorized to have access to such complaints or records by any  
10 provision of law shall be granted such access in the  
11 furtherance of such agency's statutory duties, notwithstanding  
12 the provisions of this section. This paragraph shall not be  
13 construed to modify or repeal any special or local act.

14 (q) All complaints and other records in the custody of  
15 any agency in the executive branch of state government which  
16 relate to a complaint of discrimination relating to race,  
17 color, religion, sex, national origin, age, handicap, or  
18 marital status in connection with hiring practices, position  
19 classifications, salary, benefits, discipline, discharge,  
20 employee performance, evaluation, or other related activities  
21 are exempt from the provisions of subsection (1) and s. 24(a),  
22 Art. I of the State Constitution until a finding is made  
23 relating to probable cause, the investigation of the complaint  
24 becomes inactive, or the complaint or other record is made  
25 part of the official record of any hearing or court  
26 proceeding. This provision shall not affect any function or  
27 activity of the Florida Commission on Human Rights ~~Relations~~.  
28 Any state or federal agency which is authorized to have access  
29 to such complaints or records by any provision of law shall be  
30 granted such access in the furtherance of such agency's

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1 statutory duties, notwithstanding the provisions of this  
2 section.

3 Section 14. Subsection (1) of section 553.77, Florida  
4 Statutes, is amended to read:

5 553.77 Specific powers of the board.--

6 (1) The board shall:

7 (a) Adopt rules and regulations or amendments thereto  
8 in accordance with the procedures prescribed in chapter 120.

9 (b) Make a continual study of the operation of the  
10 State Minimum Building Codes and other laws relating to the  
11 construction of buildings, including manufactured buildings,  
12 to ascertain their effect upon the cost of building  
13 construction and determine the effectiveness of their  
14 provisions.

15 (c) Upon written application by a private party or a  
16 local enforcement agency, issue advisory opinions relating to  
17 new technologies, techniques, and materials which have been  
18 tested where necessary and found to meet the objectives of the  
19 State Minimum Building Codes and the Florida Manufactured  
20 Building Act of 1979.

21 (d) Upon written application by a private party or a  
22 local enforcement agency, issue advisory opinions relating to  
23 the interpretation, enforcement, administration, or  
24 modification by local governments of the State Minimum  
25 Building Codes and the Florida Manufactured Building Act of  
26 1979.

27 (e) Make recommendations to, and provide assistance  
28 upon the request of, the Florida Commission on Human Rights  
29 ~~Relations~~ regarding rules relating to handicapped  
30 accessibility.

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1 (f) Coordinate and cooperate with the Florida Fire  
2 Code Advisory Council created under s. 633.72, for assistance  
3 and recommendations relating to firesafety code  
4 interpretations.

5 Section 15. Any referral of a discriminatory practice  
6 complaint from the Florida Commission on Human Rights to the  
7 United States Equal Employment Opportunity Commission under  
8 part I of chapter 760, Florida Statutes (The Florida Civil  
9 Rights Act), on or after October 1, 1992, regardless of  
10 whether there was an authorized workshare agreement between  
11 the commissions, is ratified and declared lawful.

12 Section 16. This act shall take effect upon becoming a  
13 law.

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15 HOUSE SUMMARY

16  
17 Changes the name of the Human Relations Commission to the  
18 Human Rights Commission. Authorizes and ratifies  
19 investigatory determinations made by the executive  
20 director of the commission. Establishes additional  
21 guidelines concerning discrimination on the basis of  
22 handicap and sex. Authorizes the use of regular mail and  
23 the referral of complaints to agencies of the Federal  
24 Government. Authorizes the commission to bring actions to  
25 enforce fair housing laws. Revises the statute of  
26 limitations for actions involving housing discrimination.  
27 Ratifies referrals of discriminatory practice complaints.  
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