

By Senator Forman

32-1187-00

See HB 897

1                                   A bill to be entitled  
2           An act relating to the Fair Housing Act;  
3           amending s. 760.29, F.S.; providing that, to  
4           qualify for the exemption from said act with  
5           respect to familial status for housing for  
6           older persons, a facility or community shall  
7           register with the Florida Commission on Human  
8           Relations and affirm compliance with specified  
9           requirements under penalty of perjury;  
10          providing for a registration fee; providing for  
11          fines; amending s. 760.31, F.S.; providing for  
12          rules; providing an effective date.

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

16           Section 1. Subsection (4) of section 760.29, Florida  
17 Statutes, is amended to read:

18           760.29 Exemptions.--

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

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

24           1. Provided under any state or federal program that  
25 the commission determines is specifically designed and  
26 operated to assist elderly persons, as defined in the state or  
27 federal program;

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

30           3. Intended and operated for occupancy by persons 55  
31 years of age or older that meets the following requirements:

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

3           b. The housing facility or community publishes and  
4 adheres to policies and procedures that demonstrate the intent  
5 required under this subparagraph. If the housing facility or  
6 community meets the requirements of sub-subparagraphs a. and  
7 c. and the recorded governing documents provide for an adult,  
8 senior, or retirement housing facility or community and the  
9 governing documents lack an amendatory procedure, prohibit  
10 amendments, or restrict amendments until a specified future  
11 date, then that housing facility or community shall be deemed  
12 housing for older persons intended and operated for occupancy  
13 by persons 55 years of age or older. If those documents  
14 further provide a prohibition against residents 16 years of  
15 age or younger, that provision shall be construed, for  
16 purposes of the Fair Housing Act, to only apply to residents  
17 18 years of age or younger, in order to conform with federal  
18 law requirements. Governing documents which can be amended at  
19 a future date must be amended and properly recorded within 1  
20 year after that date to reflect the requirements for  
21 consideration as housing for older persons, if that housing  
22 facility or community intends to continue as housing for older  
23 persons.

24           c. The housing facility or community complies with  
25 rules made by the Secretary of the United States Department of  
26 Housing and Urban Development pursuant to 24 C.F.R. part 100  
27 for verification of occupancy, which rules provide for  
28 verification by reliable surveys and affidavits and include  
29 examples of the types of policies and procedures relevant to a  
30 determination of compliance with the requirements of  
31 sub-subparagraph b. Such surveys and affidavits are

1 | admissible in administrative and judicial proceedings for the  
2 | purposes of such verification.

3 |       (c) Housing shall not fail to be considered housing  
4 | for older persons if:

5 |           1. A person who resides in such housing on or after  
6 | October 1, 1989, does not meet the age requirements of this  
7 | subsection, provided that any new occupant meets such age  
8 | requirements; or

9 |           2. One or more units are unoccupied, provided that any  
10 | unoccupied units are reserved for occupancy by persons who  
11 | meet the age requirements of this subsection.

12 |       (d) A person shall not be personally liable for  
13 | monetary damages for a violation of this subsection if such  
14 | person reasonably relied in good faith on the application of  
15 | the exemption under this subsection relating to housing for  
16 | older persons. For purposes of this paragraph, a person may  
17 | show good faith reliance on the application of the exemption  
18 | only by showing that:

19 |           1. The person has no actual knowledge that the  
20 | facility or the community is ineligible, or will become  
21 | ineligible, for such exemption; and

22 |           2. The facility or community has stated formally, in  
23 | writing, that the facility or community complies with the  
24 | requirements for such exemption.

25 |       (e) To qualify for the exemption provided by this  
26 | subsection, a facility or community shall register with the  
27 | commission and submit to the commission a sworn affidavit, or  
28 | other document approved by the commission, stating, under  
29 | penalty of perjury, that the facility or community complies  
30 | with the requirements of paragraph (b)2. or 3.a. and b. The  
31 | affidavit shall be submitted on the letterhead of the facility

1 or community or in some other form approved by the commission  
2 and shall be signed by the president of the facility or  
3 community, under penalty of perjury. This registration and  
4 documentation shall be renewed biennially from the date of  
5 original filing. The information in the registry shall be made  
6 available to the public, and the commission shall include this  
7 information on an Internet website. The commission may  
8 establish a reasonable registration fee that shall be  
9 deposited into the commission's trust fund to defray the  
10 administrative costs associated with maintaining the registry.  
11 The commission may impose an administrative fine, not to  
12 exceed \$500, on a facility or community that knowingly submits  
13 false information in connection with this registration.

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15 A county or municipal ordinance regarding housing for older  
16 persons may not contravene the provisions of this subsection.

17 Section 2. Subsection (5) of section 760.31, Florida  
18 Statutes, is amended to read:

19 760.31 Powers and duties of commission.--The  
20 commission shall:

21 (5) Adopt rules necessary to implement ss.  
22 760.20-760.37 and govern the proceedings of the commission in  
23 accordance with chapter 120. Commission rules shall clarify  
24 terms used with regard to handicapped accessibility,  
25 exceptions from accessibility requirements based on terrain or  
26 site characteristics, and requirements related to housing for  
27 older persons. Commission rules shall specify the forms and  
28 procedures to be used for the registration required by s.  
29 760.29(4)(e).

30 Section 3. This act shall take effect October 1, 2000.

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LEGISLATIVE SUMMARY

Provides that, to qualify for the exemption from the Fair Housing Act with respect to familial status for housing for older persons, a facility or community shall register with the Florida Commission on Human Relations and submit a sworn affidavit affirming compliance with specified requirements under penalty of perjury. Provides for a registration fee and authorizes the commission to impose a fine for filing false information.