

By the Committee on Comprehensive Planning, Local and Military Affairs; and Senators Sanderson and Geller

316-1514-01

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

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

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16           Section 1. Paragraph (e) is added to subsection (4) of  
17 section 760.29, Florida Statutes, 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) A facility or community claiming an exemption  
26 | under this subsection shall register with the commission and  
27 | submit a letter to the commission stating that the facility or  
28 | community complies with the requirements of paragraph (b)1.,  
29 | 2., or 3. The letter shall be submitted on the letterhead of  
30 | the facility or community and shall be signed by the president  
31 | of the facility or community. This registration and

1 documentation shall be renewed biennially from the date of  
2 original filing. The information in the registry shall be made  
3 available to the public, and the commission shall include this  
4 information on an Internet web site. The commission may  
5 establish a reasonable registration fee, not to exceed \$20,  
6 that shall be deposited into the commission's trust fund to  
7 defray the administrative costs associated with maintaining  
8 the registry. The commission may impose an administrative  
9 fine, not to exceed \$500, on a facility or community that  
10 knowingly submits false information in the documentation  
11 required by this paragraph. Such fines shall be deposited in  
12 the commission's trust fund. The registration and  
13 documentation required by this paragraph shall not substitute  
14 for proof of compliance with the requirements of this  
15 subsection. Failure to comply with the requirements of this  
16 paragraph shall not disqualify a facility or community that  
17 otherwise qualifies for the exemption provided in this  
18 subsection.

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

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

24 760.31 Powers and duties of commission.--The  
25 commission shall:

26 (5) Adopt rules necessary to implement ss.  
27 760.20-760.37 and govern the proceedings of the commission in  
28 accordance with chapter 120. Commission rules shall clarify  
29 terms used with regard to handicapped accessibility,  
30 exceptions from accessibility requirements based on terrain or  
31 site characteristics, and requirements related to housing for

1 older persons. Commission rules shall specify the fee and the  
2 forms and procedures to be used for the registration required  
3 by s. 760.29(4)(e).

4 Section 3. This act shall take effect October 1, 2001.

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
7 COMMITTEE SUBSTITUTE FOR  
8 SB 294

9 Provides that complying with the registration and  
10 documentation requirements of the bill is not a precondition  
11 for qualifying for the exemption from the Fair Housing Act  
12 with respect to familial status for housing for older persons;  
13 Requires a facility or community to submit a letter rather  
14 than an affidavit stating the facility or community complies  
15 with the requirements for the exemption; and  
16 Adds an effective date of October 1, 2001 instead of a delayed  
17 effective date of February 1, 2002.  
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