

By Senator Lawson

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1 A bill to be entitled
2 An act relating to discrimination in the treatment of
3 persons; replacing the term "handicap" with the term
4 "disability" and the term "gender" with the term
5 "sex"; amending s. 419.001, F.S.; conforming a cross-
6 reference; amending s. 760.01, F.S.; conforming
7 terminology; amending s. 760.02, F.S.; providing
8 definitions for purposes of the Florida Civil Rights
9 Act; creating s. 760.0201, F.S.; providing criteria
10 for determining different types of impairments;
11 amending s. 760.05, F.S.; conforming terminology;
12 amending s. 760.06, F.S.; revising the powers of the
13 Florida Commission on Human Relations; amending s.
14 760.07, F.S.; conforming terms; amending s. 760.08,
15 F.S.; conforming terminology; amending s. 760.10,
16 F.S.; conforming terminology; specifying that
17 protections extend to women who are pregnant or who
18 have any medical condition related to pregnancy or
19 childbirth; amending s. 760.11, F.S.; revising the
20 procedure for filing a complaint with the commission;
21 providing a statute of limitations for filing a civil
22 action with the commission; providing that the
23 commission is not a party in an administrative
24 proceeding under certain circumstances; providing that
25 the commission is not liable for certain costs and
26 fees in a proceeding to which it is not a party;
27 creating s. 760.12, F.S.; providing for the
28 computation of time for purposes of proceedings
29 conducted under ch. 760, F.S.; creating s. 760.13,

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30 F.S.; authorizing the commission to create a direct-
31 support organization; providing definitions; providing
32 for a board of directors; providing for appointment of
33 members to the board; providing for terms of office of
34 the board; providing requirements for membership of
35 the board; requiring the direct-support organization
36 to operate under a contract with the Florida
37 Commission on Human Relations; providing requirements
38 for the contract; authorizing the department to allow
39 the direct-support organization to use its property,
40 facilities, and personnel services under certain
41 circumstances; requiring any transaction or agreement
42 between the department's direct-support organization
43 and any other direct-support organization to be
44 approved by the executive director of the commission;
45 requiring the direct-support organization to submit
46 certain forms from the Internal Revenue Service to the
47 department; requiring the direct-support organization
48 to provide an annual financial audit; prohibiting the
49 direct-support organization from exercising certain
50 corporate powers; prohibiting a state employee from
51 receiving compensation from the board for his or her
52 service on the board; authorizing the commission to
53 adopt rules; amending s. 760.22, F.S.; providing
54 definitions for purposes of the Fair Housing Act;
55 creating s. 760.221, F.S.; providing criteria for
56 determining different types of impairments; amending
57 ss. 760.23, 760.24, and 760.25, F.S.; conforming
58 terminology; amending s. 760.29, F.S.; revising the

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59 registration requirements for a facility or community
60 claiming an exemption as a facility or community for
61 older persons; increasing the registration fee;
62 authorizing the commission to impose a fine against a
63 facility or community that fails to register or renew
64 its registration; conforming terminology; amending s.
65 760.31, F.S.; conforming terminology; amending s.
66 760.32, F.S.; authorizing the commission to use any
67 method of discovery authorized by the Florida Rules of
68 Civil Procedure with regard to investigations;
69 amending s. 760.34, F.S.; requiring a respondent to
70 file a response to a complaint regarding a
71 discriminatory housing practice; requiring
72 verification of the complaint and response;
73 authorizing the commission to dismiss a complaint
74 related to a discriminatory housing practice;
75 authorizing the aggrieved party to request an
76 administrative hearing related to the discriminatory
77 housing practice; providing procedures for the
78 administrative hearing; amending ss. 760.50 and
79 760.60, F.S.; conforming terminology; providing for
80 severability; providing an effective date.

81
82 Be It Enacted by the Legislature of the State of Florida:

83
84 Section 1. Paragraph (d) of subsection (1) of section
85 419.001, Florida Statutes, is amended to read:

86 419.001 Site selection of community residential homes.—
87 (1) For the purposes of this section, the following

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88 definitions shall apply:

89 (d) "Resident" means any of the following: a frail elder as
 90 defined in s. 429.65; a physically disabled or handicapped
 91 person as defined in s. 760.22(3) ~~s. 760.22(7)(a)~~; a
 92 developmentally disabled person as defined in s. 393.063; a
 93 nondangerous mentally ill person as defined in s. 394.455(18);
 94 ~~or~~ a child who is found to be dependent as defined in s. 39.01
 95 or s. 984.03; ~~r~~ or a child in need of services as defined in s.
 96 984.03 or s. 985.03.

97 Section 2. Subsection (2) of section 760.01, Florida
 98 Statutes, is amended to read:

99 760.01 Purposes; construction; title.—

100 (2) The general purposes of the Florida Civil Rights Act of
 101 1992 are to secure for all individuals within the state freedom
 102 from discrimination because of race, color, religion, sex,
 103 national origin, age, disability ~~handicap~~, or marital status and
 104 thereby to protect their interest in personal dignity, to make
 105 available to the state their full productive capacities, to
 106 secure the state against domestic strife and unrest, to preserve
 107 the public safety, health, and general welfare, and to promote
 108 the interests, rights, and privileges of individuals within the
 109 state.

110 Section 3. Subsections (12), (13), (14), and (15) are added
 111 to section 760.02, Florida Statutes, to read:

112 760.02 Definitions.—For the purposes of ss. 760.01-760.11
 113 and 509.092, the term:

114 (12) "Disability," with respect to an individual, means:

115 (a) A physical or mental impairment that substantially
 116 limits one or more of the major life activities of the

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117 individual;

118 (b) A record of such impairment;

119 (c) Being regarded as having such an impairment; or

120 (d) Having a developmental disability as defined in s.

121 393.063.

122

123 The term does not include transvestism, transsexualism,
124 pedophilia, exhibitionism, voyeurism, gender identity disorders
125 not resulting from physical impairments, or other sexual
126 behavior disorders; compulsive gambling, kleptomania, or
127 pyromania; or psychoactive substance-use disorders resulting
128 from current illegal use of drugs.

129 (13) "Major life activities" includes, but is not limited
130 to:

131 (a) Caring for one's self, performing manual tasks, and
132 functioning in a workplace environment.

133 (b) Major bodily functions, including, but not limited to,
134 visual, auditory, aural, and cognitive functions; functions of
135 the immune, digestive, neurological, respiratory, circulatory,
136 endocrine, and reproductive systems; normal cell growth; and
137 functions of the bowel, bladder, and brain.

138 (14) "Substantially limits" means to materially restrict an
139 individual's ability.

140 (15) "Transitory or minor impairment" means any impairment
141 having an actual, apparent, or expected duration of 6 months or
142 less.

143 Section 4. Section 760.0201, Florida Statutes, is created
144 to read:

145 760.0201 Impairment.—For purposes of this act, an

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146 individual who has been subjected to an action prohibited under
147 this chapter because of an actual or perceived physical or
148 mental impairment, regardless of whether the impairment limits
149 or is perceived to limit a major life activity, has an
150 impairment. An impairment that limits one major life activity
151 may be considered a disability; however, a transitory or minor
152 impairment may not be considered a disability. An impairment
153 that is episodic or in remission is considered a disability if
154 it substantially limits a major life activity when the
155 impairment is active or not in remission. The determination of
156 whether an impairment substantially limits a major life activity
157 must be made without regard to the ameliorative effects of
158 mitigating measures, such as medication; medical supplies;
159 equipment or appliances; low-vision devices, not including
160 ordinary eyeglasses or contact lenses; prosthetics, including
161 artificial limbs and devices, hearing aids and cochlear implants
162 or other implantable hearing devices, and mobility devices;
163 oxygen therapy equipment and supplies; use of assistive
164 technology; reasonable accommodations or auxiliary aids or
165 services, including qualified interpreters or other effective
166 measures of making aurally delivered materials available to
167 individuals with hearing impairments; qualified readers; taped
168 texts or other effective methods of making visually delivered
169 materials available to individuals with visual impairments;
170 acquisition or modification of equipment and devices and other
171 similar services and actions; or learned behavioral or adaptive
172 neurological modifications.

173 Section 5. Section 760.05, Florida Statutes, is amended to
174 read:

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175 760.05 Functions of the commission.—The commission shall
176 promote and encourage fair treatment and equal opportunity for
177 all persons regardless of race, color, religion, sex, national
178 origin, age, disability ~~handicap~~, or marital status and mutual
179 understanding and respect among all members of all economic,
180 social, racial, religious, and ethnic groups; and shall endeavor
181 to eliminate discrimination against, and antagonism between,
182 religious, racial, and ethnic groups and their members.

183 Section 6. Subsections (6) and (8) of section 760.06,
184 Florida Statutes, are amended to read:

185 760.06 Powers of the commission.—Within the limitations
186 provided by law, the commission shall have the following powers:

187 (6) To issue subpoenas for, administer oaths or
188 affirmations to and compel the attendance and testimony of
189 witnesses; ~~or~~ to issue subpoenas for and compel the production
190 of books, papers, records, documents, and other evidence
191 pertaining to any investigation or hearing convened pursuant to
192 the powers of the commission; or to use any other method of
193 discovery authorized by the Florida Rules of Civil Procedure. In
194 conducting an investigation, the commission and its
195 investigators shall have access at all reasonable times to
196 premises, records, documents, and other evidence or possible
197 sources of evidence and may examine, record, and copy such
198 materials and take and record the testimony or statements of
199 such persons as are reasonably necessary for the furtherance of
200 the investigation. The authority to issue subpoenas and
201 administer oaths may be delegated by the commission, for
202 investigations or hearings, to a commissioner or the executive
203 director. In the case of a refusal to obey a subpoena or other

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204 method of discovery authorized by the Florida Rules of Civil
 205 Procedure issued to any person, the commission may make
 206 application to any circuit court of this state, which shall have
 207 jurisdiction to order the witness to appear before the
 208 commission to give testimony and to produce evidence concerning
 209 the matter in question. Failure to obey the court's order may be
 210 punished by the court as contempt. If the court enters an order
 211 holding a person in contempt or compelling the person to comply
 212 with the commission's order or subpoena, the court shall order
 213 the person to pay the commission reasonable expenses, including
 214 reasonable attorneys' fees, accrued by the commission in
 215 obtaining the order from the court.

216 (8) To furnish technical assistance to employees,
 217 employers, community leaders, school officials, and other groups
 218 and individuals ~~requested by persons~~ to facilitate progress in
 219 human relations.

220 Section 7. Section 760.07, Florida Statutes, is amended to
 221 read:

222 760.07 Remedies for unlawful discrimination.—Any violation
 223 of any Florida statute making unlawful discrimination because of
 224 race, color, religion, sex ~~gender~~, national origin, age,
 225 disability ~~handicap~~, or marital status in the areas of
 226 education, employment, housing, or public accommodations gives
 227 rise to a cause of action for all relief and damages described
 228 in s. 760.11(5), unless greater damages are expressly provided
 229 for. If the statute prohibiting unlawful discrimination provides
 230 an administrative remedy, the action for equitable relief and
 231 damages provided for in this section may be initiated only after
 232 the plaintiff has exhausted his or her administrative remedy.

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233 The term "public accommodations" does not include lodge halls or
234 other similar facilities of private organizations which are made
235 available for public use occasionally or periodically. The right
236 to trial by jury is preserved in any case in which the plaintiff
237 is seeking actual or punitive damages.

238 Section 8. Section 760.08, Florida Statutes, is amended to
239 read:

240 760.08 Discrimination in places of public accommodation.—
241 All persons shall be entitled to the full and equal enjoyment of
242 the goods, services, facilities, privileges, advantages, and
243 accommodations of any place of public accommodation, as defined
244 in this chapter, without discrimination or segregation on the
245 ground of race, color, national origin, sex, disability
246 ~~handicap~~, familial status, or religion.

247 Section 9. Subsections (1), (2), (3), (4), (5), and (6),
248 and paragraph (a) of subsection (8) of section 760.10, Florida
249 Statutes, are amended, present subsection (10) of that section
250 is redesignated as subsection (11), and a new subsection (10) is
251 added to the section, to read:

252 760.10 Unlawful employment practices.—

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

254 (a) To discharge or to fail or refuse to hire any
255 individual, or otherwise to discriminate against any individual
256 with respect to compensation, terms, conditions, or privileges
257 of employment, because of such individual's race, color,
258 religion, sex, national origin, age, disability ~~handicap~~, or
259 marital status.

260 (b) To limit, segregate, or classify employees or
261 applicants for employment in any way which would deprive or tend

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262 to deprive any individual of employment opportunities, or
263 adversely affect any individual's status as an employee, because
264 of such individual's race, color, religion, sex, national
265 origin, age, disability ~~handicap~~, or marital status.

266 (2) It is an unlawful employment practice for an employment
267 agency to fail or refuse to refer for employment, or otherwise
268 to discriminate against, any individual because of race, color,
269 religion, sex, national origin, age, handicap, or marital status
270 or to classify or refer for employment any individual on the
271 basis of race, color, religion, sex, national origin, age,
272 disability ~~handicap~~, or marital status.

273 (3) It is an unlawful employment practice for a labor
274 organization:

275 (a) To exclude or to expel from its membership, or
276 otherwise to discriminate against, any individual because of
277 race, color, religion, sex, national origin, age, disability
278 ~~handicap~~, or marital status.

279 (b) To limit, segregate, or classify its membership or
280 applicants for membership, or to classify or fail or refuse to
281 refer for employment any individual, in any way which would
282 deprive or tend to deprive any individual of employment
283 opportunities, or adversely affect any individual's status as an
284 employee or as an applicant for employment, because of such
285 individual's race, color, religion, sex, national origin, age,
286 disability ~~handicap~~, or marital status.

287 (c) To cause or attempt to cause an employer to
288 discriminate against an individual in violation of this section.

289 (4) It is an unlawful employment practice for any employer,
290 labor organization, or joint labor-management committee

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291 controlling apprenticeship or other training or retraining,
292 including on-the-job training programs, to discriminate against
293 any individual because of race, color, religion, sex, national
294 origin, age, disability ~~handicap~~, or marital status in admission
295 to, or employment in, any program established to provide
296 apprenticeship or other training.

297 (5) Whenever, in order to engage in a profession,
298 occupation, or trade, it is required that a person receive a
299 license, certification, or other credential, become a member or
300 an associate of any club, association, or other organization, or
301 pass any examination, it is an unlawful employment practice for
302 any person to discriminate against any other person seeking such
303 license, certification, or other credential, seeking to become a
304 member or associate of such club, association, or other
305 organization, or seeking to take or pass such examination,
306 because of such other person's race, color, religion, sex,
307 national origin, age, disability ~~handicap~~, or marital status.

308 (6) It is an unlawful employment practice for an employer,
309 labor organization, employment agency, or joint labor-management
310 committee to print, or cause to be printed or published, any
311 notice or advertisement relating to employment, membership,
312 classification, referral for employment, or apprenticeship or
313 other training, indicating any preference, limitation,
314 specification, or discrimination, based on race, color,
315 religion, sex, national origin, age, absence of disability
316 ~~handicap~~, or marital status.

317 (8) Notwithstanding any other provision of this section, it
318 is not an unlawful employment practice under ss. 760.01-760.10
319 for an employer, employment agency, labor organization, or joint

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320 labor-management committee to:

321 (a) Take or fail to take any action on the basis of
 322 religion, sex, national origin, age, disability ~~handicap~~, or
 323 marital status in those certain instances in which religion,
 324 sex, national origin, age, absence of a particular disability
 325 ~~handicap~~, or marital status is a bona fide occupational
 326 qualification reasonably necessary for the performance of the
 327 particular employment to which such action or inaction is
 328 related.

329 (10) The protections of this section extend to women who
 330 are pregnant or who have any medical condition related to
 331 pregnancy or childbirth. Women affected by pregnancy,
 332 childbirth, or any medical condition related to pregnancy or
 333 childbirth must be treated the same for employment-related
 334 purposes as all other persons having similar abilities.

335 ~~(11)~~ Each employer, employment agency, and labor
 336 organization shall post and keep posted in conspicuous places
 337 upon its premises a notice provided by the commission setting
 338 forth such information as the commission deems appropriate to
 339 effectuate the purposes of ss. 760.01-760.10.

340 Section 10. Subsections (1), (3), and (8) of section
 341 760.11, Florida Statutes, are amended, subsection (16) is added
 342 to that section, to read:

343 760.11 Administrative and civil remedies; construction.—

344 (1) Any person aggrieved by a violation of ss. 760.01-
 345 760.10 may file a complaint with the commission within 365 days
 346 of the alleged violation, naming the employer, employment
 347 agency, labor organization, or joint labor-management committee,
 348 or, in the case of an alleged violation of s. 760.10(5), the

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349 person responsible for the violation and describing the
350 violation. Any person aggrieved by a violation of s. 509.092 may
351 file a complaint with the commission within 365 days of the
352 alleged violation naming the person responsible for the
353 violation and describing the violation. The commission, a
354 commissioner, or the Attorney General may in like manner file
355 such a complaint. On the same day the complaint is filed with
356 the commission, the commission shall clearly stamp on the face
357 of the complaint the date the complaint was filed with the
358 commission. In lieu of filing the complaint with the commission,
359 a complaint under this section may be filed with the federal
360 Equal Employment Opportunity Commission or with any unit of
361 government of the state which is a fair-employment-practice
362 agency under 29 C.F.R. ss. 1601.70-1601.80. If the date the
363 complaint is filed is clearly stamped on the face of the
364 complaint, that date is the date of filing. The date the
365 complaint is filed with the commission for purposes of this
366 section is the earliest date of filing with the Equal Employment
367 Opportunity Commission, the fair-employment-practice agency, or
368 the commission. The complaint shall contain a short and plain
369 statement of the facts describing the violation and the relief
370 sought. The commission may require additional information to be
371 in the complaint. The commission, within 5 days of the complaint
372 being filed, shall provide ~~by registered mail send~~ a copy of the
373 complaint to the person who allegedly committed the violation.
374 The person who allegedly committed the violation must respond in
375 writing to the commission and send a copy of his or her response
376 to the aggrieved person ~~may file an answer to the complaint~~
377 within 21 ~~25~~ days after ~~of~~ the date on which the person who

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378 allegedly committed the violation receives the notice of filing
379 of complaint ~~was filed with the commission. Any answer filed~~
380 ~~shall be mailed to the aggrieved person by the person filing the~~
381 ~~answer.~~ Both the complaint and the response answer shall be
382 verified.

383 (3) Except as provided in subsection (2), the commission
384 shall investigate the allegations in the complaint. Within 180
385 days of the filing of the complaint, the commission shall
386 determine if there is reasonable cause to believe that
387 discriminatory practice has occurred in violation of the Florida
388 Civil Rights Act of 1992. When the commission determines whether
389 or not there is reasonable cause, the commission ~~by registered~~
390 ~~mail~~ shall promptly notify the aggrieved person and the
391 respondent of the reasonable cause determination, the date of
392 such determination, and the options available under this
393 section.

394 (8) If ~~In the event that~~ the commission fails to conciliate
395 or determine whether there is reasonable cause on any complaint
396 under this section within 180 days of the filing of the
397 complaint, an aggrieved person may proceed under subsection (4),
398 as if the commission determined that there was reasonable cause,
399 except that any civil action filed under this section shall
400 commence no later than 4 years following the date the cause of
401 action accrued.

402 (16) If a party elects to file for an administrative
403 hearing pursuant to s. 120.569, s. 120.57, or any similar
404 provision, the sending of that election by the commission as
405 provided by paragraph (4)(b) and subsections (6), (7), and (8)
406 does not make the commission a party or a transmitting,

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407 initiating, or referral agency under s. 120.569, and the
408 commission is not liable for any costs, fees, or expenses,
409 including court reporting or recordation fees, associated with
410 the proceeding. This section does not apply to any action where
411 the commission initiates or is a party to an administrative
412 hearing.

413 Section 11. Section 760.12, Florida Statutes, is created to
414 read:

415 760.12 Computation of time.—In computing any period of time
416 prescribed in this chapter, the day of the act, event, or
417 default from which the designated period of time begins to run
418 shall not be included. The last day of the period so computed
419 shall be included unless it is a Saturday, Sunday, or legal
420 state holiday, in which event the period shall run until the end
421 of the next day which is neither a Saturday, Sunday, or legal
422 state holiday. When the period of time prescribed or allowed is
423 less than 7 days, intermediate Saturdays, Sundays, and legal
424 state holidays shall be excluded in the computation.

425 Section 12. Section 760.13, Florida Statutes, is created to
426 read:

427 760.13 Florida Commission on Human Relations; direct-
428 support organization.—

429 (1) DIRECT-SUPPORT ORGANIZATION ESTABLISHED.—The Florida
430 Commission on Human Relations may establish a direct-support
431 organization to provide assistance, funding, and support for the
432 commission in carrying out its mission. This section governs the
433 creation, use, powers, and duties of the direct-support
434 organization.

435 (2) DEFINITIONS.—As used in this section, the term:

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436 (a) "Commission" means the Florida Commission on Human
437 Relations as created in s. 760.03.

438 (b) "Direct-support organization" means an organization
439 that is:

440 1. A Florida corporation, not for profit, incorporated
441 under the provisions of chapter 617, exempted from filing fees
442 under s. 617.0122, and approved by the Department of State.

443 2. Organized and operated exclusively to obtain funds;
444 request and receive grants, gifts, and bequests of moneys;
445 acquire, receive, hold, invest, and administer, in its own name,
446 securities, funds, or property; and make expenditures to or for
447 the direct or indirect benefit of the commission in its efforts
448 to:

449 a. Promote and encourage fair treatment and equal
450 opportunity for all persons regardless of race, color, religion,
451 sex, national origin, age, disability, or marital or familial
452 status;

453 b. Encourage mutual understanding and respect among all
454 members of all economic, social, racial, religious, and ethnic
455 groups; and

456 c. Endeavor to eliminate discrimination against, and
457 antagonism between, religious, racial, and ethnic groups and
458 their members.

459 3. Authorized to receive federal subsidies, endowments,
460 grants, and aid, but not authorized to receive any donations
461 from any private or public entity, or individuals connected with
462 such entities in any manner in which the commission has
463 regulatory authority over pursuant to this chapter.

464 4. Determined by the commission to be operating in a manner

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465 consistent with the goals and purposes of the commission and in
466 the best interest of the state.

467 (c) "Personnel services" includes full-time or part-time
468 personnel.

469 (3) BOARD OF DIRECTORS.—The direct-support organization
470 shall be governed by a board of directors.

471 (a) The board of directors shall consist of no fewer than
472 three members and no more than five members appointed by the
473 executive director of the commission.

474 (b) The term of office of the board members is 3 years,
475 except that the terms of the initial appointees are for 1 year,
476 2 years, or 3 years in order to achieve staggered terms. A
477 member may be reappointed when his or her term expires. The
478 executive director of the commission, or his or her designee,
479 shall serve as an ex officio member of the board of directors.

480 (c) Members must be current residents of this state and
481 knowledgeable about human and civil rights. The executive
482 director of the commission may remove any member of the board
483 for cause and with the approval of a majority of the members of
484 the board of directors. The executive director of the commission
485 shall appoint a replacement for any vacancy that occurs.

486 (4) CONTRACT.—The direct-support organization shall operate
487 under a written contract with the commission. The written
488 contract must provide for:

489 (a) Submission of an annual budget for approval by the
490 executive director of the commission.

491 (b) Certification by the commission that the direct-support
492 organization is complying with the terms of the contract and is
493 doing so consistent with the goals and purposes of the

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494 commission and in the best interests of the state. This
495 certification must be made annually and reported in the official
496 minutes of a meeting of the direct-support organization.

497 (c) The reversion of moneys and property held by the
498 direct-support organization:

499 1. To the commission if the direct-support organization is
500 no longer approved to operate for the commission;

501 2. To the commission if the direct-support organization
502 ceases to exist; or

503 3. To the state if the commission ceases to exist.

504 (d) The disclosure of the material provisions of the
505 contract, and the distinction between the commission and the
506 direct-support organization, to donors of gifts, contributions,
507 or bequests, including such disclosure on all promotional and
508 fundraising publications.

509 (5) USE OF PROPERTY AND SERVICES.—

510 (a) The commission may permit the use of property,
511 facilities, and personnel services of the commission by the
512 direct-support organization, subject to this section.

513 (b) The commission may prescribe, by contract, any
514 condition with which the direct-support organization must comply
515 in order to use property, facilities, or personnel services of
516 the commission.

517 (c) The commission may not permit the use of its property,
518 facilities, or personnel services by any direct-support
519 organization organized under this section which does not provide
520 equal employment opportunities to all persons regardless of
521 race, color, national origin, sex, age, religion, disability, or
522 familial or marital status.

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523 (6) ACTIVITIES; RESTRICTIONS.—Any transaction or agreement
524 between the direct-support organization organized under this
525 section and another direct-support organization or other entity
526 must be approved by the executive director of the commission.

527 (7) ANNUAL BUDGETS AND REPORTS.—

528 (a) The fiscal year of the direct-support organization
529 begins on July 1 of each year and ends on June 30 of the
530 following year.

531 (b) The direct-support organization shall submit to the
532 commission its federal Internal Revenue Service Application for
533 Recognition of Exemption form and its federal Internal Revenue
534 Service Return of Organization Exempt from Income Tax form.

535 (8) ANNUAL AUDIT.—The direct-support organization shall
536 provide for an annual financial audit in accordance with s.
537 215.981.

538 (9) LIMITS ON DIRECT-SUPPORT ORGANIZATION.—The direct-
539 support organization may not exercise any power under s.
540 617.0302(12) or s. 617.0302(16). A state employee may not
541 receive compensation from the direct-support organization for
542 services on the board of directors or for services rendered to
543 the direct-support organization.

544 (10) RULEMAKING AUTHORITY.—The commission may adopt rules
545 to administer the provisions of this section.

546 Section 13. Section 760.22, Florida Statutes, is amended to
547 read:

548 760.22 Definitions.—As used in ss. 760.20-760.37, the term:

549 (1) "Commission" means the Florida Commission on Human
550 Relations.

551 (2) "Covered multifamily dwelling" means:

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552 (a) A building which consists of four or more units and has
553 an elevator; or

554 (b) The ground floor units of a building which consists of
555 four or more units and does not have an elevator.

556 (3) "Disability," with respect to an individual, means:

557 (a) A physical or mental impairment that substantially
558 limits one or more major life activities of the individual;

559 (b) A record of the impairment;

560 (c) Being regarded as having an impairment; or

561 (d) Having a developmental disability as defined in s.
562 393.063.

563
564 The term does not include transvestism, transsexualism,
565 pedophilia, exhibitionism, voyeurism, gender identity disorders
566 not resulting from physical impairments, or other sexual
567 behavior disorders; compulsive gambling, kleptomania, or
568 pyromania; or psychoactive substance use disorders resulting
569 from current illegal use of drugs.

570 (4)~~(3)~~ "Discriminatory housing practice" means an act that
571 is unlawful under the terms of ss. 760.20-760.37.

572 (5)~~(4)~~ "Dwelling" means any building or structure, or
573 portion thereof, which is occupied as, or designed or intended
574 for occupancy as, a residence by one or more families, and any
575 vacant land which is offered for sale or lease for the
576 construction or location on the land of any such building or
577 structure, or portion thereof.

578 (6)~~(5)~~ "Familial status" is established when an individual
579 who has not attained the age of 18 years is domiciled with:

580 (a) A parent or other person having legal custody of such

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581 individual; or

582 (b) A designee of a parent or other person having legal
583 custody, with the written permission of such parent or other
584 person.

585 (7)~~(6)~~ "Family" includes a single individual.

586 ~~(7) "Handicap" means:~~

587 ~~(a) A person has a physical or mental impairment which~~
588 ~~substantially limits one or more major life activities, or he or~~
589 ~~she has a record of having, or is regarded as having, such~~
590 ~~physical or mental impairment; or~~

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

593 (8) "Major life activities" includes, but is not limited
594 to:

595 (a) Caring for one's self, performing manual tasks, and
596 functioning in a workplace environment.

597 (b) Major bodily functions, including, but not limited to,
598 visual, auditory, aural, and cognitive functions; functions of
599 the immune, digestive, neurological, respiratory, circulatory,
600 endocrine, and reproductive systems; normal cell growth; and
601 functions of the bowel, bladder, and brain.

602 (9)~~(8)~~ "Person" includes one or more individuals,
603 corporations, partnerships, associations, labor organizations,
604 legal representatives, mutual companies, joint-stock companies,
605 trusts, unincorporated organizations, trustees, trustees in
606 bankruptcy, receivers, and fiduciaries.

607 (10)~~(9)~~ "Substantially equivalent" means an administrative
608 subdivision of the State of Florida meeting the requirements of
609 24 C.F.R. part 115, s. 115.6.

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610 (11) "Substantially limits" means to materially restrict an
611 individual's ability.

612 ~~(12)(10)~~ "To rent" includes to lease, to sublease, to let,
613 and otherwise to grant for a consideration the right to occupy
614 premises not owned by the occupant.

615 (13) "Transitory or minor impairment" means any impairment
616 having an actual, apparent, or expected duration of 6 months or
617 less.

618 Section 14. Section 760.221, Florida Statutes, is created
619 to read:

620 760.221 Impairment.—For purposes of this act, an individual
621 who has been subjected to an action prohibited under this
622 chapter because of an actual or perceived physical or mental
623 impairment, regardless of whether the impairment limits or is
624 perceived to limit a major life activity, has an impairment. An
625 impairment that limits one major life activity may be considered
626 a disability; however, a transitory or minor impairment may not
627 be considered a disability. An impairment that is episodic or in
628 remission is considered a disability if it substantially limits
629 a major life activity when the impairment is active or not in
630 remission. The determination of whether an impairment
631 substantially limits a major life activity must be made without
632 regard to the ameliorative effects of mitigating measures, such
633 as medication; medical supplies; equipment or appliances; low-
634 vision devices, not including ordinary eyeglasses or contact
635 lenses; prosthetics, including artificial limbs and devices,
636 hearing aids and cochlear implants or other implantable hearing
637 devices, and mobility devices; oxygen therapy equipment and
638 supplies; use of assistive technology; reasonable accommodations

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639 or auxiliary aids or services, including qualified interpreters
640 or other effective measures of making aurally delivered
641 materials available to individuals with hearing impairments;
642 qualified readers; taped texts or other effective methods of
643 making visually delivered materials available to individuals
644 with visual impairments; acquisition or modification of
645 equipment and devices and other similar services and actions; or
646 learned behavioral or adaptive neurological modifications.

647 Section 15. Section 760.23, Florida Statutes, is amended to
648 read:

649 760.23 Discrimination in the sale or rental of housing and
650 other prohibited practices.—

651 (1) It is unlawful to refuse to sell or rent after the
652 making of a bona fide offer, to refuse to negotiate for the sale
653 or rental of, or otherwise to make unavailable or deny a
654 dwelling to any person because of race, color, national origin,
655 sex, disability ~~handicap~~, familial status, or religion.

656 (2) It is unlawful to discriminate against any person in
657 the terms, conditions, or privileges of sale or rental of a
658 dwelling, or in the provision of services or facilities in
659 connection therewith, because of race, color, national origin,
660 sex, disability ~~handicap~~, familial status, or religion.

661 (3) It is unlawful to make, print, or publish, or cause to
662 be made, printed, or published, any notice, statement, or
663 advertisement with respect to the sale or rental of a dwelling
664 that indicates any preference, limitation, or discrimination
665 based on race, color, national origin, sex, disability ~~handicap~~,
666 familial status, or religion or an intention to make any such
667 preference, limitation, or discrimination.

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668 (4) It is unlawful to represent to any person because of
669 race, color, national origin, sex, disability ~~handicap~~, familial
670 status, or religion that any dwelling is not available for
671 inspection, sale, or rental when such dwelling is in fact so
672 available.

673 (5) It is unlawful, for profit, to induce or attempt to
674 induce any person to sell or rent any dwelling by a
675 representation regarding the entry or prospective entry into the
676 neighborhood of a person or persons of a particular race, color,
677 national origin, sex, disability ~~handicap~~, familial status, or
678 religion.

679 (6) The protections afforded under ss. 760.20-760.37
680 against discrimination on the basis of familial status apply to
681 any person who is pregnant or is in the process of securing
682 legal custody of any individual who has not attained the age of
683 18 years.

684 (7) It is unlawful to discriminate in the sale or rental
685 of, or to otherwise make unavailable or deny, a dwelling to any
686 buyer or renter because of a disability ~~handicap~~ of:

687 (a) That buyer or renter;

688 (b) A person residing in or intending to reside in that
689 dwelling after it is sold, rented, or made available; or

690 (c) Any person associated with the buyer or renter.

691 (8) It is unlawful to discriminate against any person in
692 the terms, conditions, or privileges of sale or rental of a
693 dwelling, or in the provision of services or facilities in
694 connection with such dwelling, because of a disability ~~handicap~~
695 of:

696 (a) That buyer or renter;

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697 (b) A person residing in or intending to reside in that
698 dwelling after it is sold, rented, or made available; or

699 (c) Any person associated with the buyer or renter.

700 (9) For purposes of subsections (7) and (8), discrimination
701 includes:

702 (a) A refusal to permit, at the expense of the ~~handicapped~~
703 person having a disability, reasonable modifications of existing
704 premises occupied or to be occupied by such person if such
705 modifications may be necessary to afford such person full
706 enjoyment of the premises; or

707 (b) A refusal to make reasonable accommodations in rules,
708 policies, practices, or services, when such accommodations may
709 be necessary to afford such person equal opportunity to use and
710 enjoy a dwelling.

711 (10) Covered multifamily dwellings as defined herein which
712 are intended for first occupancy after March 13, 1991, shall be
713 designed and constructed to have at least one building entrance
714 on an accessible route unless it is impractical to do so because
715 of the terrain or unusual characteristics of the site as
716 determined by commission rule. Such buildings shall also be
717 designed and constructed in such a manner that:

718 (a) The public use and common use portions of such
719 dwellings are readily accessible to and usable by ~~handicapped~~
720 persons having disabilities.

721 (b) All doors designed to allow passage into and within all
722 premises within such dwellings are sufficiently wide to allow
723 passage by a person in a wheelchair.

724 (c) All premises within such dwellings contain the
725 following features of adaptive design:

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- 726 1. An accessible route into and through the dwelling.
727 2. Light switches, electrical outlets, thermostats, and
728 other environmental controls in accessible locations.
729 3. Reinforcements in bathroom walls to allow later
730 installation of grab bars.
731 4. Usable kitchens and bathrooms such that a person in a
732 wheelchair can maneuver about the space.
733 (d) Compliance with the appropriate requirements of the
734 American National Standards Institute for buildings and
735 facilities providing accessibility and usability for persons
736 having disabilities ~~physically handicapped people~~, commonly
737 cited as ANSI A117.1-1986, suffices to satisfy the requirements
738 of paragraph (c).

739
740 State agencies with building construction regulation
741 responsibility or local governments, as appropriate, shall
742 review the plans and specifications for the construction of
743 covered multifamily dwellings to determine consistency with the
744 requirements of this subsection.

745 Section 16. Section 760.24, Florida Statutes, is amended to
746 read:

747 760.24 Discrimination in the provision of brokerage
748 services.—It is unlawful to deny any person access to, or
749 membership or participation in, any multiple-listing service,
750 real estate brokers' organization, or other service,
751 organization, or facility relating to the business of selling or
752 renting dwellings, or to discriminate against him or her in the
753 terms or conditions of such access, membership, or
754 participation, on account of race, color, national origin, sex,

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755 disability handicap, familial status, or religion.

756 Section 17. Section 760.25, Florida Statutes, is amended to
757 read:

758 760.25 Discrimination in the financing of housing or in
759 residential real estate transactions.—

760 (1) It is unlawful for any bank, building and loan
761 association, insurance company, or other corporation,
762 association, firm, or enterprise the business of which consists
763 in whole or in part of the making of commercial real estate
764 loans to deny a loan or other financial assistance to a person
765 applying for the loan for the purpose of purchasing,
766 constructing, improving, repairing, or maintaining a dwelling,
767 or to discriminate against him or her in the fixing of the
768 amount, interest rate, duration, or other term or condition of
769 such loan or other financial assistance, because of the race,
770 color, national origin, sex, disability handicap, familial
771 status, or religion of such person or of any person associated
772 with him or her in connection with such loan or other financial
773 assistance or the purposes of such loan or other financial
774 assistance, or because of the race, color, national origin, sex,
775 disability handicap, familial status, or religion of the present
776 or prospective owners, lessees, tenants, or occupants of the
777 dwelling or dwellings in relation to which such loan or other
778 financial assistance is to be made or given.

779 (2) (a) It is unlawful for any person or entity whose
780 business includes engaging in residential real estate
781 transactions to discriminate against any person in making
782 available such a transaction, or in the terms or conditions of
783 such a transaction, because of race, color, national origin,

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784 sex, disability handicap, familial status, or religion.

785 (b) As used in this subsection, the term "residential real
786 estate transaction" means any of the following:

787 1. The making or purchasing of loans or providing other
788 financial assistance:

789 a. For purchasing, constructing, improving, repairing, or
790 maintaining a dwelling; or

791 b. Secured by residential real estate.

792 2. The selling, brokering, or appraising of residential
793 real property.

794 Section 18. Paragraph (e) of subsection (4) and paragraph
795 (a) of subsection (5) of section 760.29, Florida Statutes, are
796 amended to read:

797 760.29 Exemptions.—

798 (4)

799 (e) A facility or community claiming an exemption under
800 this subsection shall register with the commission by submitting
801 a copy of its recorded documents establishing the facility or
802 community for housing for older persons and ~~submit~~ a letter ~~to~~
803 ~~the commission~~ stating that the facility or community complies
804 with the requirements of subparagraph (b)1., subparagraph (b)2.,
805 or subparagraph (b)3. to the commission. The letter shall be
806 submitted on the letterhead of the facility or community and
807 shall be signed by the president of the facility or community.
808 This registration and documentation shall be renewed biennially
809 from the date of original filing. The information in the
810 registry shall be made available to the public, and the
811 commission shall include this information on an Internet
812 website. The commission may charge a ~~establish a reasonable~~

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813 registration fee of \$75, which, ~~not to exceed \$20,~~ that shall be
814 deposited into the commission's trust fund to defray the
815 administrative costs associated with maintaining the registry.
816 The commission may impose an administrative fine, not to exceed
817 \$500, on a facility or community that fails to register or renew
818 its registration with the commission or that knowingly submits
819 false information in the documentation required by this
820 paragraph. Such fines shall be deposited in the commission's
821 trust fund. The registration and documentation required by this
822 paragraph shall not substitute for proof of compliance with the
823 requirements of this subsection. Failure to comply with the
824 requirements of this paragraph shall not disqualify a facility
825 or community that otherwise qualifies for the exemption provided
826 in this subsection.

827
828 A county or municipal ordinance regarding housing for older
829 persons may not contravene the provisions of this subsection.

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

831 (a) Prohibits a person engaged in the business of
832 furnishing appraisals of real property from taking into
833 consideration factors other than race, color, national origin,
834 sex, disability handicap, familial status, or religion.

835 Section 19. Subsection (5) of section 760.31, Florida
836 Statutes, is amended to read:

837 760.31 Powers and duties of commission.—The commission
838 shall:

839 (5) Adopt rules necessary to implement ss. 760.20-760.37
840 and govern the proceedings of the commission in accordance with
841 chapter 120. Commission rules shall clarify terms used with

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842 regard to disability ~~handicapped~~ accessibility, exceptions from
843 accessibility requirements based on terrain or site
844 characteristics, and requirements related to housing for older
845 persons. Commission rules shall specify the fee and the forms
846 and procedures to be used for the registration required by s.
847 760.29(4) (e).

848 Section 20. Subsection (1) of section 760.32, Florida
849 Statutes, is amended to read:

850 760.32 Investigations; subpoenas; oaths.—

851 (1) In conducting an investigation, the commission shall
852 have access at all reasonable times to premises, records,
853 documents, individuals, and other evidence or possible sources
854 of evidence and may examine, record, and copy such materials and
855 take and record the testimony or statements of such persons as
856 are reasonably necessary for the furtherance of the
857 investigation if, ~~provided~~ the commission first complies with
858 the provisions of the State Constitution relating to
859 unreasonable searches and seizures. The commission may issue
860 subpoenas to compel its access to or the production of such
861 materials or the appearance of such persons, and may issue
862 interrogatories to a respondent, to the same extent and subject
863 to the same limitations as would apply if the subpoenas or
864 interrogatories were issued or served in aid of a civil action
865 in court. The commission may also use any other method of
866 discovery authorized by the Florida Rules of Civil Procedure.
867 The commission may administer oaths.

868 Section 21. Subsections (2) and (4) of section 760.34,
869 Florida Statutes, are amended to read:

870 760.34 Enforcement.—

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871 (2) A complaint under subsection (1) must be filed within 1
872 year after the alleged discriminatory housing practice occurred.
873 The complaint must be in writing and shall state the facts upon
874 which the allegations of a discriminatory housing practice are
875 based. A complaint may be reasonably and fairly amended at any
876 time. A respondent shall ~~may~~ file a response ~~an answer~~ to the
877 complaint against him or her and, with the leave of the
878 commission, which shall be granted whenever it would be
879 reasonable and fair to do so, may amend his or her response
880 ~~answer~~ at any time. Both complaint and response ~~answer~~ shall be
881 verified.

882 (4) If, within 180 days after a complaint is filed with the
883 commission or within 180 days after expiration of any period of
884 reference under subsection (3), the commission has been unable
885 to obtain voluntary compliance with ss. 760.20-760.37, the
886 person aggrieved may commence a civil action in any appropriate
887 court against the respondent named in the complaint or petition
888 for an administrative determination pursuant to s. 760.35 to
889 enforce the rights granted or protected by ss. 760.20-760.37.

890 (a) If, as a result of its investigation under subsection
891 (1), the commission finds there is reasonable cause to believe
892 that a discriminatory housing practice has occurred, at the
893 request of the person aggrieved, the Attorney General shall
894 bring an action in the name of the state on behalf of the
895 aggrieved person to enforce the provisions of ss. 760.20-760.37.

896 (b) If the commission determines that there is not
897 reasonable cause to believe that a discriminatory housing
898 practice has occurred, the commission shall dismiss the
899 complaint. The aggrieved person may request an administrative

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900 hearing under ss. 120.569 and 120.57, but any such request must
901 be made within 30 days after the service of the notice of the
902 determination of no reasonable cause. Any such hearing shall be
903 heard by an administrative law judge and not by the commission
904 or a commissioner. If the aggrieved person does not request an
905 administrative hearing within 30 days, the claim is barred. If
906 the administrative law judge finds that a discriminatory housing
907 practice has occurred, he or she shall issue an appropriate
908 recommended order to the commission. Within 90 days after the
909 date that the recommended order is rendered, the commission
910 shall issue a final order by adopting, rejecting, or modifying
911 the recommended order as provided under ss. 120.569 and 120.57.
912 The 90-day period may be extended with the consent of all the
913 parties. In any action or proceeding under this subsection, the
914 commission may allow the prevailing party reasonable attorney's
915 fees as part of the costs. It is the intent of the Legislature
916 that this provision for attorney's fees be interpreted in a
917 manner consistent with federal case law involving a Title VII
918 action. If the final order issued by the commission determines
919 that a discriminatory housing practice has occurred, the
920 aggrieved person may:

921 1. Request the Attorney General to bring an action in the
922 name of the state on behalf of the aggrieved person to enforce
923 the provisions of ss. 760.20-760.37; or

924 2. Proceed with the case pursuant to subsections (5), (6)
925 or (7) as if there has been a determination of reasonable cause.

926 Section 22. Subsection (2) of section 760.50, Florida
927 Statutes, is amended to read:

928 760.50 Discrimination on the basis of AIDS, AIDS-related

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929 complex, and HIV prohibited.-

930 (2) Any person with or perceived as having acquired immune
931 deficiency syndrome, acquired immune deficiency syndrome related
932 complex, or human immunodeficiency virus shall have every
933 protection made available to ~~handicapped~~ persons having
934 disabilities.

935 Section 23. Subsection (1) of section 760.60, Florida
936 Statutes, is amended to read:

937 760.60 Discriminatory practices of certain clubs
938 prohibited; remedies.-

939 (1) It is unlawful for a person to discriminate against any
940 individual because of race, color, religion, sex ~~gender~~,
941 national origin, disability ~~handicap~~, age above the age of 21,
942 or marital status in evaluating an application for membership in
943 a club that has more than 400 members, that provides regular
944 meal service, and that regularly receives payment for dues,
945 fees, use of space, facilities, services, meals, or beverages
946 directly or indirectly from nonmembers for business purposes. It
947 is unlawful for a person, on behalf of such a club, to publish,
948 circulate, issue, display, post, or mail any advertisement,
949 notice, or solicitation that contains a statement to the effect
950 that the accommodations, advantages, facilities, membership, or
951 privileges of the club are denied to any individual because of
952 race, color, religion, sex ~~gender~~, national origin, disability
953 ~~handicap~~, age above the age of 21, or marital status. This
954 subsection does not apply to fraternal or benevolent
955 organizations, ethnic clubs, or religious organizations where
956 business activity is not prevalent.

957 Section 24. If any provision of this act or its application

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958 to any person or circumstance is held invalid, the invalidity
959 does not affect other provisions or applications of the act
960 which can be given effect without the invalid provision or
961 application, and to this end the provisions of this act are
962 severable.

963 Section 25. This act shall take effect July 1, 2009.