

HB 815

2012

1 A bill to be entitled
2 An act relating to employment discrimination against
3 the unemployed; creating the "Fair Employment
4 Opportunity Act"; setting forth the purpose of the
5 act; defining terms; prohibiting an employer from
6 refusing to consider for employment, or refusing to
7 offer employment to, a person because the person is or
8 was unemployed; prohibiting an employer from
9 publishing in print, on the Internet, or in any other
10 medium an advertisement or announcement for a job
11 which states or indicates that an unemployed person is
12 disqualified from consideration for the job;
13 prohibiting an employer from directing or requesting
14 an employment agency to take a person's status as
15 unemployed into account in screening or referring
16 applicants for employment; prohibiting an employment
17 agency from refusing to consider or refer a person for
18 employment based on the person's status as unemployed;
19 prohibiting an employment agency from publishing in
20 print, on the Internet, or in any other medium an
21 advertisement or announcement for any job vacancy
22 which states or indicates that an unemployed person is
23 disqualified from consideration for the job;
24 prohibiting an employment agency from limiting,
25 segregating, or classifying a person in any manner
26 that may limit the person's access to information
27 about jobs or referral for consideration for jobs
28 because the person is or was unemployed; prohibiting

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 an employer or employment agency from interfering
 30 with, restraining, or denying the exercise of, or the
 31 attempt to exercise, any right provided by the act or
 32 refusing to hire, discharging, or in any other manner
 33 discriminating against a person because the person
 34 engaged in certain specified lawful activities;
 35 providing an exception for a bona fide occupational
 36 qualification; authorizing the Attorney General to
 37 commence a civil action for damages, injunctive
 38 relief, civil penalties, and other appropriate relief
 39 if the Attorney General has reasonable cause to
 40 believe that an employer or employment agency has
 41 violated the act; authorizing the Attorney General to
 42 file an action in the circuit court in the county
 43 where the cause of action arises or in the Circuit
 44 Court for the Second Judicial Circuit in Leon County;
 45 providing procedures; providing that the prevailing
 46 party in such action is entitled to an award of
 47 reasonable attorney fees and costs; providing that
 48 damages recovered under the act accrue to the injured
 49 party; providing an effective date.

50
 51 Be It Enacted by the Legislature of the State of Florida:

52
 53 Section 1. Discrimination against the unemployed;
 54 prohibited acts; penalties.-

55 (1) SHORT TITLE.-This act may be cited as the "Fair
 56 Employment Opportunity Act."

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57 (2) PURPOSE.—The purpose of this section is to prohibit an
58 employer or employment agency from considering a person's status
59 as an unemployed person when screening that person for or
60 filling a position, except when a requirement related to
61 employment status is a bona fide occupational qualification
62 reasonably necessary to successful performance in the job, and
63 to eliminate the burdens imposed on commerce by excluding
64 unemployed persons from employment.

65 (3) DEFINITIONS.—As used in this section, the term:

66 (a) "Affected person" means a person who was refused
67 consideration for employment or was not hired by an employer
68 because the person is or was unemployed, or a person who was not
69 considered, screened, or referred for employment opportunities
70 by an employment agency because the person is or was unemployed.

71 (b) "Employer" means a person who is engaged in commerce
72 or industry, or in an activity affecting commerce, who employs
73 15 or more persons each working day in each of 20 or more
74 calendar weeks in the current or preceding calendar year. The
75 term includes, but is not limited to:

76 1. A person who acts, directly or indirectly, in the
77 interest of an employer with respect to employing persons to
78 work for that employer; and

79 2. A successor in interest of an employer.

80 (c) "Employment agency" means a business that regularly
81 procures, with or without compensation, employees for an
82 employer or job opportunities for an individual seeking
83 employment and includes, but is not limited to, an agent of the
84 employment agency and an individual who maintains an Internet

85 website that publishes advertisements or announcements of job
 86 openings.

87 (d) "Unemployed" means a person's present or past
 88 unemployment, regardless of the length of time the person was
 89 unemployed.

90 (4) EMPLOYERS.—An employer may not:

91 (a) Refuse to consider for employment or refuse to offer
 92 employment to a person because the person is or was unemployed.

93 (b) Publish in print, on the Internet, or in any other
 94 medium an advertisement or announcement for a job which
 95 includes:

96 1. A provision stating or indicating that an unemployed
 97 person is disqualified from consideration for the job;

98 2. A provision stating or indicating that an employer will
 99 not consider an unemployed applicant for employment; or

100 3. A directive or request that an employment agency take a
 101 person's status as unemployed into account in screening or
 102 referring applicants for employment.

103 (5) EMPLOYMENT AGENCIES.—An employment agency may not:

104 (a) Refuse to consider or refer a person for employment
 105 based on the fact that the person is or was unemployed;

106 (b) Limit, segregate, or classify a person in a manner
 107 that may limit the person's access to information about a job or
 108 referral for consideration for a job because that person is or
 109 was unemployed; or

110 (c) Publish in print, on the Internet, or in another
 111 medium an advertisement or announcement for a job vacancy which
 112 includes a provision stating or indicating that:

113 1. An unemployed person is disqualified from consideration
 114 for the job; or

115 2. An employer will not consider an unemployed person for
 116 employment.

117 (6) INTERFERENCE WITH RIGHTS, PROCEEDINGS, OR INQUIRIES.—
 118 An employer or employment agency may not:

119 (a) Interfere with, restrain, or deny the exercise of, or
 120 the attempt to exercise, a right provided by this section; or

121 (b) Refuse to hire, to discharge, or in another manner to
 122 discriminate against a person because the person:

123 1. Opposed any practice made unlawful by this section;

124 2. Has filed a charge, or has instituted or caused to be
 125 instituted a proceeding, under or related to this section;

126 3. Has given, or is about to give, information in
 127 connection with an inquiry or proceeding relating to a right
 128 provided under this section; or

129 4. Has testified, or is about to testify, in an inquiry or
 130 proceeding relating to a right provided under this section.

131 (7) BONA FIDE OCCUPATIONAL QUALIFICATION.—Notwithstanding
 132 any other provision of law, consideration by an employer or
 133 employment agency of a person's status as unemployed is not an
 134 unlawful employment practice if a person's employment in a
 135 similar or related job for a period of time reasonably proximate
 136 to the hiring of the person is a bona fide occupational
 137 qualification reasonably necessary to successful performance of
 138 the job that is being filled.

139 (8) CIVIL ACTION BY THE ATTORNEY GENERAL.—

140 (a) The Attorney General may commence a civil action for

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141 damages, injunctive relief, civil penalties not to exceed
142 \$10,000 per violation, and such other relief as may be
143 appropriate under the laws of this state if the Attorney General
144 has reasonable cause to believe that an employer or employment
145 agency has violated this section.

146 (b) The Attorney General may file an action under this
147 subsection in the circuit court of the county in which the cause
148 of action arises or in the Circuit Court for the Second Judicial
149 Circuit in Leon County.

150 (c) In any proceeding under this subsection, the
151 respondent may request, before any responsive pleading is due,
152 that a hearing be held no earlier than 5 days but no more than
153 30 days after the filing of the complaint. The court shall
154 determine at that hearing whether the complaint on its face
155 makes a prima facie showing that a pattern or practice of
156 discrimination exists or that, as a result of discrimination, an
157 issue of great public interest exists.

158 (d) The prevailing party in an action brought under this
159 subsection is entitled to an award of reasonable attorney fees
160 and costs.

161 (e) Damages recovered under this subsection shall accrue
162 to the injured party.

163 Section 2. This act shall take effect July 1, 2012.