By Senator Abruzzo

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A bill to be entitled An act relating to prohibited discrimination; creating the "Florida Competitive Workforce Act"; amending s. 509.092, F.S.; adding sexual orientation and gender identity or expression and the perception of race, creed, color, sex, physical disability, sexual orientation, gender identity or expression, or national origin as impermissible grounds for discrimination in public lodging establishments and public food service establishments; providing an exception for constitutionally protected free exercise of religion; amending s. 760.01, F.S.; revising provisions to include sexual orientation and gender identity or expression and the perception of race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status as impermissible grounds for discrimination; amending s. 760.02, F.S.; defining additional terms; amending ss. 760.05 and 760.07, F.S.; adding sexual orientation and gender identity or expression and the perception of race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status as impermissible grounds for discrimination; conforming terminology; amending s. 760.08, F.S.; adding sexual orientation and gender identity or expression and the perception of race, color, national origin, sex, sexual orientation, gender identity or expression, handicap, familial

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status, or religion as impermissible grounds for discrimination; amending s. 760.10, F.S.; adding sexual orientation and gender identity or expression and the perception of race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status as impermissible grounds for discrimination; providing an exception for constitutionally protected free exercise of religion; amending s. 760.22, F.S.; defining additional terms; amending ss. 760.23, 760.24, 760.25, and 760.26, F.S.; adding sexual orientation and gender identity or expression and the perception of race, color, national origin, sex, sexual orientation, gender identity or expression, handicap, familial status, or religion as impermissible grounds for discrimination; amending s. 760.29, F.S.; adding sexual orientation and gender identity or expression as impermissible grounds for discrimination; amending s. 760.60, F.S.; adding sexual orientation and gender identity or expression and the perception of race, color, religion, sex, national origin, handicap, age, sexual orientation, gender identity or expression, or marital status as impermissible grounds for discrimination; amending s. 419.001, F.S.; conforming a cross-reference; providing an effective date.

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

565758

Section 1. This act may be cited as the "Florida

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## Competitive Workforce Act."

Section 2. Section 509.092, Florida Statutes, is amended to read:

509.092 Public lodging establishments and public food service establishments; rights as private enterprises.—

- (1) Public lodging establishments and public food service establishments are private enterprises, and the operator has the right to refuse accommodations or service to any person who is objectionable or undesirable to the operator, but such refusal may not be based upon the person's actual or perceived race, creed, color, sex, physical disability, sexual orientation, gender identity or expression, or national origin.
- (2) A person aggrieved by a violation of this section or a violation of a rule adopted under this section has a right of action pursuant to s. 760.11.
- (3) This section does not limit the free exercise of religion guaranteed by the United States Constitution and the State Constitution.

Section 3. Subsection (2) of section 760.01, Florida Statutes, is amended to read:

760.01 Purposes; construction; title.-

(2) The general purposes of the Florida Civil Rights Act of 1992 are to secure for all individuals within the state freedom from discrimination because of, or based on the perception of, race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and

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unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the state.

Section 4. Section 760.02, Florida Statutes, is amended to read:

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

- (1) "Aggrieved person" means a person who files a complaint with the commission.
- (1) "Florida Civil Rights Act of 1992" means ss. 760.01-760.11 and 509.092.
- (2) "Commission" means the Florida Commission on Human Relations created by s. 760.03.
- (3) "Commissioner" or "member" means a member of the commission.
- (4) "Discriminatory practice" means  $\underline{a}$  any practice made unlawful by the Florida Civil Rights Act of 1992.
- (5) "Employer" means a person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and an agent of such a person.
- (6) "Employment agency" means a person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer, and includes an agent of such a person.
- (7) "Florida Civil Rights Act of 1992" means ss. 760.01-760.11 and 509.092.
- (8) "Gender identity or expression" means gender-related identity, appearance, expression, or behavior of an individual,

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regardless of the individual's assigned sex at birth.

(9) "Labor organization" means an organization that exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in connection with employment.

- (10) <del>(5)</del> "National origin" includes ancestry.
- (11) (6) "Person" includes an individual, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, or unincorporated organization; any other legal or commercial entity; the state; or any governmental entity or agency.
- (7) "Employer" means any person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person.
- (8) "Employment agency" means any person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer, and includes an agent of such a person.
- (9) "Labor organization" means any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in connection with employment.
- (10) "Aggrieved person" means any person who files a complaint with the Human Relations Commission.
  - (12) (11) "Public accommodations" means places of public

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accommodation, lodgings, facilities principally engaged in selling food for consumption on the premises, gasoline stations, places of exhibition or entertainment, and other covered establishments. Each of the following establishments that which serves the public is a place of public accommodation within the meaning of this section:

- (a) An Any inn, hotel, motel, or other establishment that which provides lodging to transient guests, other than an establishment located within a building which contains not more than four rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his or her residence.
- (b)  $\underline{A}$  Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of  $\underline{a}$  any retail establishment, or a any gasoline station.
- (c)  $\underline{A}$  Any motion picture theater, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment.
- (d) An Any establishment that which is physically located within the premises of an any establishment otherwise covered by this subsection, or within the premises of which is physically located any such covered establishment, and that which holds itself out as serving patrons of such covered establishment.
- (13) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, or bisexuality.
- Section 5. Section 760.05, Florida Statutes, is amended to read:
  - 760.05 Functions of the commission.—The commission shall

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promote and encourage fair treatment and equal opportunity for all persons regardless of race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status and mutual understanding and respect among all members of society all economic, social, racial, religious, and ethnic groups; and the commission shall endeavor to eliminate discrimination against, and antagonism between, persons on the basis of, or based on the perception of, race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status religious, racial, and ethnic groups and their members.

Section 6. Section 760.07, Florida Statutes, is amended to read:

760.07 Remedies for unlawful discrimination.—The Any violation of any Florida statute that prohibits making unlawful discrimination because of, or based on the perception of, race, color, religion, sex gender, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status in the areas of education, employment, housing, or public accommodations gives rise to a cause of action for all relief and damages described in s. 760.11(5), unless greater damages are expressly provided for. If the statute prohibiting unlawful discrimination provides an administrative remedy, the action for equitable relief and damages provided for in this section may be initiated only after the plaintiff has exhausted his or her administrative remedy. The term "public accommodations" does not include lodge halls or other similar facilities of private organizations which are made available for public use occasionally or periodically. The right to trial by jury is

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preserved in any case in which the plaintiff is seeking actual or punitive damages.

Section 7. Section 760.08, Florida Statutes, is amended to read:

760.08 Discrimination in places of public accommodation.— All persons are shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this chapter, without discrimination or segregation on the ground of, or based on the perception of, race, color, national origin, sex, sexual orientation, gender identity or expression, handicap, familial status, or religion.

Section 8. Subsections (1) and (2), paragraphs (a) and (b) of subsection (3), subsections (4) through (6), paragraph (a) of subsection (8), and subsection (9) of section 760.10, Florida Statutes, are amended to read:

760.10 Unlawful employment practices.-

- (1) It is an unlawful employment practice for an employer:
- (a) To discharge or to fail or refuse to hire any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of, or based on the perception of, such individual's race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status.
- (b) To limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities, or

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adversely affect any individual's status as an employee, because of such individual's race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status.

- (2) It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of, or based on the perception of, race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status or to classify or refer for employment any individual on the basis of, or based on the perception of, race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status.
- (3) It is an unlawful employment practice for a labor organization:
- (a) To exclude or to expel from its membership, or otherwise to discriminate against, any individual because of, or based on the perception of, race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status.
- (b) To limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or adversely affect any individual's status as an employee or as an applicant for employment, because of, or based on the perception of, such individual's race, color, religion, sex, national origin, age, sexual orientation, gender identity

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or expression, handicap, or marital status.

- (4) It is an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of, or based on the perception of, race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status in admission to, or employment in, any program established to provide apprenticeship or other training.
- (5) Whenever, in order to engage in a profession, occupation, or trade, it is required that a person receive a license, certification, or other credential, become a member or an associate of any club, association, or other organization, or pass any examination, it is an unlawful employment practice for any person to discriminate against any other person seeking such license, certification, or other credential, seeking to become a member or associate of such club, association, or other organization, or seeking to take or pass such examination, because of, or based on the perception of, such other person's race, color, religion, sex, national origin, age, <a href="sextual">sextual</a> orientation, gender identity or expression, handicap, or marital status.
- (6) It is an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee to print, or cause to be printed or published, any notice or advertisement relating to employment, membership, classification, referral for employment, or apprenticeship or other training, indicating any preference, limitation,

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specification, or discrimination, based on <u>a person's actual or perceived</u> race, color, religion, sex, national origin, age, <u>sexual orientation</u>, gender identity or expression, absence of handicap, or marital status.

- (8) Notwithstanding any other provision of this section, it is not an unlawful employment practice under ss. 760.01-760.10 for an employer, employment agency, labor organization, or joint labor-management committee to:
- (a) Take or fail to take any action on the basis of <u>a</u> person's actual or perceived religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status in those certain instances in which religion, sex, national origin, age, sexual orientation, gender identity or expression, absence of a particular handicap, or marital status is a bona fide occupational qualification reasonably necessary for the performance of the particular employment to which such action or inaction is related.
- (9) (a) This section shall not apply to any religious corporation, association, educational institution, or society which conditions opportunities in the area of employment or public accommodation to members of that religious corporation, association, educational institution, or society or to persons who subscribe to its tenets or beliefs.
- (b) This section does shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporations, associations, educational institutions, or societies of its various activities.

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(c) This section and s. 760.08 do not limit the free exercise of religion guaranteed by the United States

Constitution and the State Constitution.

Section 9. Section 760.22, Florida Statutes, is amended to read:

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

- (1) "Commission" means the Florida Commission on Human Relations.
  - (2) "Covered multifamily dwelling" means:
- (a) A building that which consists of four or more units and has an elevator; or
- (b) The ground floor units of a building that which consists of four or more units and does not have an elevator.
- (3) "Discriminatory housing practice" means an act that is unlawful under the terms of ss. 760.20-760.37.
- (4) "Dwelling" means any building or structure, or portion thereof, which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that which is offered for sale or lease for the construction or location on the land of any such building or structure, or portion thereof.
- (5) "Familial status" is established when an individual who has not attained the age of 18 years is domiciled with:
- (a) A parent or other person having legal custody of such individual; or
- (b) A designee of a parent or other person having legal custody, with the written permission of such parent or other person.
  - (6) "Family" includes a single individual.

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(7) "Gender identity or expression" has the same meaning as provided in s. 760.02.

- (8) <del>(7)</del> "Handicap" means:
- (a) A person has a physical or mental impairment  $\underline{\text{that}}$  which substantially limits one or more major life activities, or he or she has a record of having, or  $\underline{\text{being}}$  is regarded as having, such physical or mental impairment; or
- (b) A person has a developmental disability as defined in s. 393.063.
- (9) (8) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.
- (10) "Sexual orientation" has the same meaning as provided in s. 760.02.
- $\underline{(11)}$  "Substantially equivalent" means an administrative subdivision of the State of Florida meeting the requirements of 24 C.F.R. part 115, subpart B s. 115.6.
- $\underline{(12)}$  "To rent" includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- Section 10. Subsections (1) through (5) of section 760.23, Florida Statutes, are amended to read:
- 760.23 Discrimination in the sale or rental of housing and other prohibited practices.—
- (1) It is unlawful to refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, or otherwise to make unavailable or deny a

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dwelling to any person because of, or based upon the perception
of, race, color, national origin, sex, sexual orientation,
gender identity or expression, handicap, familial status, or
religion.

- (2) It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of <u>related</u> services or facilities in connection therewith, because of, or based upon the <u>perception of</u>, race, color, national origin, sex, <u>sexual orientation</u>, gender identity or expression, handicap, familial status, or religion.
- (3) It is unlawful to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling which that indicates any preference, limitation, or discrimination based on a person's actual or perceived race, color, national origin, sex, sexual orientation, gender identity or expression, handicap, familial status, or religion or an intention to make any such preference, limitation, or discrimination.
- (4) It is unlawful to represent to any person because of <u>or</u> <u>based on the perception of the person's</u> race, color, national origin, sex, <u>sexual orientation</u>, <u>gender identity or expression</u>, handicap, familial status, or religion that <u>a any</u> dwelling is not available for inspection, sale, or rental <u>if when</u> such dwelling is <u>in fact so</u> available.
- (5) It is unlawful, for profit, to induce or attempt to induce  $\underline{a}$  any person to sell or rent any dwelling by a representation regarding the entry or prospective entry into the

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neighborhood of a person or persons of, or perceived to be of, a
particular race, color, national origin, sex, sexual
orientation, gender identity or expression, handicap, familial
status, or religion.

Section 11. Section 760.24, Florida Statutes, is amended to read:

760.24 Discrimination in the provision of brokerage services.—It is unlawful to deny any person access to, or membership or participation in, any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership, or participation, on account of, or based on the perception of, race, color, national origin, sex, sexual orientation, gender identity or expression, handicap, familial status, or religion.

Section 12. Subsection (1) and paragraph (a) of subsection (2) of section 760.25, Florida Statutes, are amended to read:

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

(1) It is unlawful for <u>a</u> any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise the business of which consists in whole or in part of the making of commercial real estate loans to deny a loan or other financial assistance to a person applying for the loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other term or condition of

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the perception of, the race, color, national origin, sex, sexual orientation, gender identity or expression, handicap, familial status, or religion of such person or of any person associated with him or her in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or because of, or based on the perception of, the race, color, national origin, sex, sexual orientation, gender identity or expression, handicap, familial status, or religion of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

(2) (a) It is unlawful for <u>a</u> any person or entity whose business includes engaging in residential real estate transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of, or based on the perception of, race, color, national origin, sex, <u>sexual orientation</u>, <u>gender identity or expression</u>, handicap, familial status, or religion.

Section 13. Section 760.26, Florida Statutes, is amended to read:

760.26 Prohibited discrimination in land use decisions and in permitting of development.—It is unlawful to discriminate in land use decisions or in the permitting of development based on a person's actual or perceived race, color, national origin, sex, sexual orientation, gender identity or expression, disability, familial status, religion, or, except as otherwise provided by law, the source of financing of a development or proposed development.

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Section 14. Paragraph (a) of subsection (5) of section 760.29, Florida Statutes, is amended to read:

760.29 Exemptions.

- (5) Nothing in ss. 760.20-760.37:
- (a) Prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, national origin, sex, sexual orientation, gender identity or expression, handicap, familial status, or religion.

Section 15. Subsection (1) of section 760.60, Florida Statutes, is amended to read:

760.60 Discriminatory practices of certain clubs prohibited; remedies.—

(1) It is unlawful for a person to discriminate against any individual because of, or based on the perception of, race, color, religion, sex gender, national origin, handicap, age above the age of 21, sexual orientation, gender identity or expression handicap, age above the age of 21, or marital status in evaluating an application for membership in a club that has more than 400 members, that provides regular meal service, and that regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages directly or indirectly from nonmembers for business purposes. It is unlawful for a person, on behalf of such a club, to publish, circulate, issue, display, post, or mail any advertisement, notice, or solicitation that contains a statement to the effect that the accommodations, advantages, facilities, membership, or privileges of the club are denied to any individual because of, or based on the perception of, race, color, religion, sex

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gender, national origin, handicap, age above the age of 21, sexual orientation, gender identity or expression handicap, age above the age of 21, or marital status. This subsection does not apply to fraternal or benevolent organizations, ethnic clubs, or religious organizations where business activity is not prevalent.

Section 16. Paragraph (e) of subsection (1) of section 419.001, Florida Statutes, is amended to read:

419.001 Site selection of community residential homes.-

- (1) For the purposes of this section, the term:
- (e) "Resident" means any of the following: a frail elder as defined in s. 429.65; a person who has a handicap as defined in s. 760.22 760.22(7)(a); a person who has a developmental disability as defined in s. 393.063; a nondangerous person who has a mental illness as defined in s. 394.455; or a child who is found to be dependent as defined in s. 39.01 or s. 984.03, or a child in need of services as defined in s. 984.03 or s. 985.03.

Section 17. This act shall take effect July 1, 2014.