

By Senator Braynon

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1 A bill to be entitled
2 An act relating to the Fair Housing Act; amending ss.
3 760.34 and 760.35, F.S.; providing that a person
4 aggrieved by a discriminatory housing practice may
5 file a civil action to enforce the rights granted and
6 protected by the Fair Housing Act without filing a
7 complaint with the Florida Commission on Human
8 Relations or without regard to the status of a
9 complaint filed with the commission; providing that if
10 the commission or local agency has obtained a
11 conciliation agreement with the consent of a person
12 aggrieved by a discriminatory housing practice in
13 response to a complaint filed with the commission, the
14 filing of a civil action to enforce rights granted and
15 protected by the act is prohibited except to enforce
16 the terms of such conciliation agreement; reorganizing
17 provisions of the act for clarity; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 760.34, Florida Statutes, is amended to
23 read:

24 760.34 Enforcement; administrative procedures.—

25 (1) A ~~Any~~ person who claims to have been injured by a
26 discriminatory housing practice or who believes that he or she
27 will be injured by a discriminatory housing practice that is
28 about to occur may file a complaint with the commission.
29 Complaints must ~~shall~~ be in writing and must ~~shall~~ contain such

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30 information and be in such form as the commission requires. Upon
31 receipt of such a complaint, the commission shall furnish a copy
32 to the person or persons who allegedly committed the
33 discriminatory housing practice or are about to commit the
34 alleged discriminatory housing practice. Within 100 days after
35 receiving a complaint, or within 100 days after the expiration
36 of any period of reference under subsection (3), the commission
37 shall investigate the complaint and give notice in writing to
38 the person aggrieved whether it intends to resolve it. If the
39 commission decides to resolve the complaint, it shall proceed to
40 try to eliminate or correct the alleged discriminatory housing
41 practice by informal methods of conference, conciliation, and
42 persuasion. Insofar as possible, conciliation meetings must
43 ~~shall~~ be held in the municipality ~~cities~~ or other locality
44 ~~localities~~ where the discriminatory housing practices allegedly
45 occurred. Nothing said or done in the course of such informal
46 endeavors may be made public or used as evidence in a subsequent
47 proceeding under ss. 760.20-760.37 without the written consent
48 of the persons concerned. An ~~Any~~ employee of the commission who
49 makes public any information in violation of this provision is
50 guilty of a misdemeanor of the first degree, punishable as
51 provided in s. 775.082 or s. 775.083.

52 (2) A complaint under subsection (1) must be filed within 1
53 year after the alleged discriminatory housing practice occurred.
54 The complaint must be in writing and must ~~shall~~ state the facts
55 upon which the allegations of a discriminatory housing practice
56 are based. A complaint may be reasonably and fairly amended at
57 any time. A respondent may file an answer to the complaint
58 against him or her and, with the leave of the commission, which

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59 shall be granted whenever it would be reasonable and fair to do
60 so, may amend his or her answer at any time. Both complaint and
61 answer shall be verified.

62 (3) Wherever a local fair housing law provides rights and
63 remedies for alleged discriminatory housing practices which are
64 substantially equivalent to the rights and remedies provided in
65 ss. 760.20-760.37, the commission shall notify the appropriate
66 local agency of any complaint filed under ss. 760.20-760.37
67 which appears to constitute a violation of the local fair
68 housing law, and the commission shall take no further action
69 with respect to such complaint if the local law enforcement
70 official has, within 30 days after ~~from the date~~ the alleged
71 offense was brought to his or her attention, commenced
72 proceedings in the matter. In no event shall the commission take
73 further action unless it certifies that in its judgment, under
74 the circumstances of the particular case, the protection of the
75 rights of the parties or the interests of justice require such
76 action.

77 (4) If, within 180 days after a complaint is filed with the
78 commission or within 180 days after expiration of any period of
79 reference under subsection (3), the commission has been unable
80 to obtain voluntary compliance with ss. 760.20-760.37 or, ~~the~~
81 ~~person aggrieved may commence a civil action in any appropriate~~
82 ~~court against the respondent named in the complaint or petition~~
83 ~~for an administrative determination pursuant to s. 760.35 to~~
84 ~~enforce the rights granted or protected by ss. 760.20-760.37.~~
85 ~~If, as a result of its investigation under subsection (1), the~~
86 ~~commission~~ finds there is reasonable cause to believe that a
87 discriminatory housing practice has occurred, the following

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88 actions may be taken to enforce the rights granted or protected
89 by ss. 760.20-760.37:

90 (a) At the request of the person aggrieved, the Attorney
91 General may bring an action in the name of the state on behalf
92 of the aggrieved person aggrieved if the commission finds there
93 is reasonable cause to believe that a discriminatory housing
94 practice has occurred to enforce the provisions of ss. 760.20-
95 760.37.

96 (b) The person aggrieved may request administrative relief
97 under chapter 120 within 30 days after receiving notice that the
98 commission has concluded its investigation.

99 (c) The commission may institute an administrative
100 proceeding under chapter 120.

101 ~~(5) In any proceeding brought pursuant to this section or~~
102 ~~s. 760.35, the burden of proof is on the complainant.~~

103 ~~(6) Whenever an action filed in court pursuant to this~~
104 ~~section or s. 760.35 comes to trial, the commission shall~~
105 ~~immediately terminate all efforts to obtain voluntary~~
106 ~~compliance.~~

107 ~~(d)(7)(a)~~ (d) The commission may institute a civil action in
108 any appropriate court ~~if it is unable to obtain voluntary~~
109 ~~compliance with ss. 760.20-760.37.~~ The commission need not have
110 petitioned for an administrative hearing or exhausted its
111 administrative remedies prior to bringing a civil action.

112 ~~1.(b)~~ 1. The court may impose the following fines for each
113 violation of ss. 760.20-760.37:

114 ~~a.1.~~ a.1. Up to \$10,000, if the respondent has not previously
115 been found guilty of a violation of ss. 760.20-760.37.

116 ~~b.2.~~ b.2. Up to \$25,000, if the respondent has been found guilty

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117 of one prior violation of ss. 760.20-760.37 within the preceding
118 5 years.

119 ~~c.3.~~ Up to \$50,000, if the respondent has been found guilty
120 of two or more violations of ss. 760.20-760.37 within the
121 preceding 7 years.

122 2. In imposing a fine under this paragraph, the court shall
123 consider the nature and circumstances of the violation, the
124 degree of culpability, the history of prior violations of ss.
125 760.20-760.37, the financial circumstances of the respondent,
126 and the goal of deterring future violations of ss. 760.20-
127 760.37.

128 3.~~(e)~~ The court shall award reasonable attorney ~~attorney's~~
129 fees and costs to the commission in any action in which the
130 commission prevails.

131 (5)~~(8)~~ Any local agency certified as substantially
132 equivalent may institute a civil action in any appropriate
133 court, including circuit court, if it is unable to obtain
134 voluntary compliance with the local fair housing law. The agency
135 need not have petitioned for an administrative hearing or
136 exhausted its administrative remedies prior to bringing a civil
137 action. The court may impose fines as provided in the local fair
138 housing law.

139 (6) Administrative hearings under subsection (4) shall be
140 conducted pursuant to ss. 120.569 and 120.57(1).

141 (a) The respondent must be served written notice by
142 certified mail.

143 (b) If the administrative law judge finds that a
144 discriminatory housing practice has occurred or is about to
145 occur, he or she shall issue a recommended order to the

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146 commission prohibiting the practice and recommending affirmative
147 relief from the effects of the practice, including quantifiable
148 damages and reasonable attorney fees and costs. The commission
149 may adopt, reject, or modify a recommended order only as
150 provided under s. 120.57(1). Judgment for the amount of damages
151 and costs assessed pursuant to a final order by the commission
152 may be entered in any court having jurisdiction and may be
153 enforced as any other judgment.

154 (c) The district courts of appeal may, upon the filing of
155 appropriate notices of appeal, review final orders of the
156 commission pursuant to s. 120.68. Costs or fees may not be
157 assessed against the commission in any appeal from a final order
158 issued by the commission under this subsection. Unless
159 specifically ordered by the court, the commencement of an appeal
160 does not suspend or stay an order of the commission.

161 (7) This section does not require a person aggrieved by a
162 discriminatory housing practice to file a complaint with the
163 commission to enforce the rights granted and protected by ss.
164 760.20-760.37. A person aggrieved by a discriminatory housing
165 practice may commence a civil action pursuant to s. 760.35 to
166 enforce the rights granted or protected by ss. 760.20-760.37
167 without filing a complaint under this section and without regard
168 to the status of a complaint filed under this section except as
169 provided in s. 760.35.

170 (8) Whenever an action filed in court pursuant to this
171 section or s. 760.35 comes to trial, the commission shall
172 immediately terminate all efforts to obtain voluntary compliance
173 with ss. 760.20-760.37.

174 (9) In any proceeding brought pursuant to this section or

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175 s. 760.35, the burden of proof is on the complainant.

176 Section 2. Section 760.35, Florida Statutes, is amended to
177 read:

178 760.35 Civil actions and relief; ~~administrative~~
179 ~~procedures.~~—

180 (1) A civil action may ~~shall~~ be commenced no later than 2
181 years after an alleged discriminatory housing practice has
182 occurred. However, a civil action may not be commenced under
183 this section if the commission or local agency, in response to a
184 complaint filed under s. 760.34, has obtained a conciliation
185 agreement with the consent of the person aggrieved by a
186 discriminatory housing practice and the alleged discriminatory
187 housing practice that formed the basis of the complaint also
188 forms the basis of the civil action except for the purpose of
189 enforcing the terms of such conciliation agreement. The court
190 shall continue a civil action ~~case~~ brought pursuant to this
191 section or s. 760.34 from time to time before bringing it to
192 trial if the court believes that ~~the~~ conciliation efforts of the
193 commission or local agency are likely to result in satisfactory
194 settlement of a the discriminatory housing practice complained
195 of in the complaint made to the commission or to the local
196 agency and the alleged discriminatory housing which practice
197 that formed the basis of the complaint also forms the basis for
198 the civil action in court. Any sale, encumbrance, or rental
199 consummated before ~~prior to~~ the issuance of any court order
200 issued under the authority of ss. 760.20-760.37 and involving a
201 bona fide purchaser, encumbrancer, or tenant without actual
202 notice of the existence of the filing of a complaint or civil
203 action under the provisions of ss. 760.20-760.37 may ~~shall~~ not

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204 be affected.

205 (2) If the court finds that a discriminatory housing
206 practice has occurred, it shall issue an order prohibiting the
207 practice and providing affirmative relief from the effects of
208 the practice, including injunctive and other equitable relief,
209 actual and punitive damages, and reasonable attorney ~~attorney's~~
210 fees and costs.

211 ~~(3)(a) If the commission is unable to obtain voluntary~~
212 ~~compliance with ss. 760.20-760.37 or has reasonable cause to~~
213 ~~believe that a discriminatory practice has occurred:~~

214 ~~1. The commission may institute an administrative~~
215 ~~proceeding under chapter 120; or~~

216 ~~2. The person aggrieved may request administrative relief~~
217 ~~under chapter 120 within 30 days after receiving notice that the~~
218 ~~commission has concluded its investigation under s. 760.34.~~

219 ~~(b) Administrative hearings shall be conducted pursuant to~~
220 ~~ss. 120.569 and 120.57(1). The respondent must be served written~~
221 ~~notice by certified mail. If the administrative law judge finds~~
222 ~~that a discriminatory housing practice has occurred or is about~~
223 ~~to occur, he or she shall issue a recommended order to the~~
224 ~~commission prohibiting the practice and recommending affirmative~~
225 ~~relief from the effects of the practice, including quantifiable~~
226 ~~damages and reasonable attorney's fees and costs. The commission~~
227 ~~may adopt, reject, or modify a recommended order only as~~
228 ~~provided under s. 120.57(1). Judgment for the amount of damages~~
229 ~~and costs assessed pursuant to a final order by the commission~~
230 ~~may be entered in any court having jurisdiction thereof and may~~
231 ~~be enforced as any other judgment.~~

232 ~~(c) The district courts of appeal may, upon the filing of~~

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233 ~~appropriate notices of appeal, review final orders of the~~
234 ~~commission pursuant to s. 120.68. Costs or fees may not be~~
235 ~~assessed against the commission in any appeal from a final order~~
236 ~~issued by the commission under this subsection. Unless~~
237 ~~specifically ordered by the court, the commencement of an appeal~~
238 ~~does not suspend or stay an order of the commission.~~

239 ~~(d) This subsection does not prevent any other legal or~~
240 ~~administrative action provided by law.~~

241 Section 3. This act shall take effect July 1, 2014.