

1 A bill to be entitled
2 An act relating to prohibited discrimination; creating
3 the "Florida Competitive Workforce Act"; amending s.
4 760.01, F.S.; revising provisions to include sexual
5 orientation and gender identity or expression and the
6 perception of race, color, religion, sex, national
7 origin, age, sexual orientation, gender identity or
8 expression, handicap, or marital status as
9 impermissible grounds for discrimination; reordering
10 and amending s. 760.02, F.S.; defining additional
11 terms; amending ss. 760.05, 760.07, and 760.08, F.S.;
12 adding sexual orientation and gender identity or
13 expression as impermissible grounds for
14 discrimination; conforming terminology; amending s.
15 760.10, F.S.; adding sexual orientation and gender
16 identity or expression as impermissible grounds for
17 discrimination; providing an exception for
18 constitutionally protected free exercise of religion;
19 amending s. 509.092, F.S.; adding sexual orientation
20 and gender identity or expression as impermissible
21 grounds for discrimination in public lodging
22 establishments and public food service establishments;
23 providing an exception for constitutionally protected
24 free exercise of religion; amending s. 760.22, F.S.;
25 defining additional terms; amending ss. 760.23,
26 760.24, 760.25, 760.26, 760.29, and 760.60, F.S.;

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27 adding sexual orientation and gender identity or
 28 expression as impermissible grounds for
 29 discrimination; amending s. 419.001, F.S.; conforming
 30 a cross-reference; providing an effective date.

31

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

33

34 Section 1. This act may be cited as the "Florida
 35 Competitive Workforce Act."

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

38 760.01 Purposes; construction; title.—

39 (2) The general purposes of the Florida Civil Rights Act
 40 of 1992 are to secure for all individuals within the state
 41 freedom from discrimination because of or based on the
 42 perception of race, color, religion, sex, pregnancy, national
 43 origin, age, sexual orientation, gender identity or expression,
 44 handicap, or marital status and thereby to protect their
 45 interest in personal dignity, to make available to the state
 46 their full productive capacities, to secure the state against
 47 domestic strife and unrest, to preserve the public safety,
 48 health, and general welfare, and to promote the interests,
 49 rights, and privileges of individuals within the state.

50 Section 3. Section 760.02, Florida Statutes, is reordered
 51 and amended to read:

52 760.02 Definitions.—For the purposes of ss. 760.01–760.11
 53 and 509.092, the term:

54 (1)~~(10)~~ "Aggrieved person" means any person who files a
 55 complaint with the Human Relations Commission.

56 (2) "Commission" means the Florida Commission on Human
 57 Relations created by s. 760.03.

58 (3) "Commissioner" or "member" means a member of the
 59 commission.

60 (4) "Discriminatory practice" means any practice made
 61 unlawful by the Florida Civil Rights Act of 1992.

62 (5)~~(7)~~ "Employer" means any person employing 15 or more
 63 employees for each working day in each of 20 or more calendar
 64 weeks in the current or preceding calendar year, and any agent
 65 of such a person.

66 (6)~~(8)~~ "Employment agency" means any person regularly
 67 undertaking, with or without compensation, to procure employees
 68 for an employer or to procure for employees opportunities to
 69 work for an employer, and includes an agent of such a person.

70 (7)~~(1)~~ "Florida Civil Rights Act of 1992" means ss.
 71 760.01–760.11 and 509.092.

72 (8) "Gender identity or expression" means gender-related
 73 identity, appearance, or behavior, whether such gender-related
 74 identity, appearance, or behavior is different from that
 75 traditionally associated with the person's physiology or
 76 assigned sex at birth, which gender-related identity can be
 77 shown by providing evidence, including, but not limited to:

78 (a) Medical history, care, or treatment of the gender-
 79 related identity;

80 (b) Consistent and uniform assertion of the gender-related
 81 identity; or

82 (c) Other evidence that the gender-related identity is a
 83 sincerely held part of a person's core identity and is not being
 84 asserted for an improper purpose.

85 (9) "Labor organization" means any organization which
 86 exists for the purpose, in whole or in part, of collective
 87 bargaining or of dealing with employers concerning grievances,
 88 terms or conditions of employment, or other mutual aid or
 89 protection in connection with employment.

90 (10)~~(5)~~ "National origin" includes ancestry.

91 (11)~~(6)~~ "Person" includes an individual, association,
 92 corporation, joint apprenticeship committee, joint-stock
 93 company, labor union, legal representative, mutual company,
 94 partnership, receiver, trust, trustee in bankruptcy, or
 95 unincorporated organization; any other legal or commercial
 96 entity; the state; or any governmental entity or agency.

97 (12)~~(11)~~ "Public accommodations" means places of public
 98 accommodation, lodgings, facilities principally engaged in
 99 selling food for consumption on the premises, gasoline stations,
 100 places of exhibition or entertainment, and other covered
 101 establishments. Each of the following establishments which
 102 serves the public is a place of public accommodation within the
 103 meaning of this section:

104 (a) Any inn, hotel, motel, or other establishment that
 105 ~~which~~ provides lodging to transient guests, other than an
 106 establishment located within a building that ~~which~~ contains not
 107 more than four rooms for rent or hire and that ~~which~~ is actually
 108 occupied by the proprietor of such establishment as his or her
 109 residence.

110 (b) Any restaurant, cafeteria, lunchroom, lunch counter,
 111 soda fountain, or other facility principally engaged in selling
 112 food for consumption on the premises, including, but not limited
 113 to, any such facility located on the premises of any retail
 114 establishment, or any gasoline station.

115 (c) Any motion picture theater, theater, concert hall,
 116 sports arena, stadium, or other place of exhibition or
 117 entertainment.

118 (d) Any establishment that ~~which~~ is physically located
 119 within the premises of any establishment otherwise covered by
 120 this subsection, or within the premises of which is physically
 121 located any such covered establishment, and which holds itself
 122 out as serving patrons of such covered establishment.

123 (13) "Sexual orientation" means an individual's actual or
 124 perceived heterosexuality, homosexuality, or bisexuality.

125 Section 4. Section 760.05, Florida Statutes, is amended to
 126 read:

127 760.05 Functions of the commission.—The commission shall
 128 promote and encourage fair treatment and equal opportunity for
 129 all persons regardless of race, color, religion, sex, pregnancy,

130 national origin, age, sexual orientation, gender identity or
131 expression, handicap, or marital status and mutual understanding
132 and respect among all members of society ~~all economic, social,~~
133 ~~racial, religious, and ethnic groups;~~ and the commission shall
134 endeavor to eliminate discrimination against, and antagonism
135 between, persons on the basis of or based on the perception of
136 race, color, religion, sex, national origin, age, sexual
137 orientation, gender identity or expression, handicap, or marital
138 status ~~religious, racial, and ethnic groups and their members.~~

139 Section 5. Section 760.07, Florida Statutes, is amended to
140 read:

141 760.07 Remedies for unlawful discrimination.—Any violation
142 of any Florida statute making unlawful discrimination because of
143 or based on the perception of race, color, religion, gender,
144 pregnancy, national origin, age, sexual orientation, gender
145 identity or expression, handicap, or marital status in the areas
146 of education, employment, housing, or public accommodations
147 gives rise to a cause of action for all relief and damages
148 described in s. 760.11(5), unless greater damages are expressly
149 provided for. If the statute prohibiting unlawful discrimination
150 provides an administrative remedy, the action for equitable
151 relief and damages provided for in this section may be initiated
152 only after the plaintiff has exhausted his or her administrative
153 remedy. The term "public accommodations" does not include lodge
154 halls or other similar facilities of private organizations which
155 are made available for public use occasionally or periodically.

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156 The right to trial by jury is preserved in any case in which the
157 plaintiff is seeking actual or punitive damages.

158 Section 6. Section 760.08, Florida Statutes, is amended to
159 read:

160 760.08 Discrimination in places of public accommodation.—
161 All persons are entitled to the full and equal enjoyment of the
162 goods, services, facilities, privileges, advantages, and
163 accommodations of any place of public accommodation without
164 discrimination or segregation on the ground of or based on the
165 perception of race, color, national origin, sex, sexual
166 orientation, gender identity or expression, pregnancy, handicap,
167 familial status, or religion.

168 Section 7. Subsections (1) and (2), paragraphs (a) and (b)
169 of subsection (3), subsections (4), (5), and (6), paragraph (a)
170 of subsection (8), and subsection (9) of section 760.10, Florida
171 Statutes, are amended to read:

172 760.10 Unlawful employment practices.—

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

174 (a) To discharge or to fail or refuse to hire any
175 individual, or otherwise to discriminate against any individual
176 with respect to compensation, terms, conditions, or privileges
177 of employment, because of or based on the perception of such
178 individual's race, color, religion, sex, pregnancy, national
179 origin, age, sexual orientation, gender identity or expression,
180 handicap, or marital status.

181 (b) To limit, segregate, or classify employees or

182 applicants for employment in any way which would deprive or tend
183 to deprive any individual of employment opportunities, or
184 adversely affect any individual's status as an employee, because
185 of or based on the perception of such individual's race, color,
186 religion, sex, pregnancy, national origin, age, sexual
187 orientation, gender identity or expression, handicap, or marital
188 status.

189 (2) It is an unlawful employment practice for an
190 employment agency to fail or refuse to refer for employment, or
191 otherwise to discriminate against, any individual because of or
192 based on the perception of race, color, religion, sex,
193 pregnancy, national origin, age, sexual orientation, gender
194 identity or expression, handicap, or marital status or to
195 classify or refer for employment any individual on the basis of
196 or based on the perception of race, color, religion, sex,
197 pregnancy, national origin, age, sexual orientation, gender
198 identity or expression, handicap, or marital status.

199 (3) It is an unlawful employment practice for a labor
200 organization:

201 (a) To exclude or to expel from its membership, or
202 otherwise to discriminate against, any individual because of or
203 based on the perception of race, color, religion, sex,
204 pregnancy, national origin, age, sexual orientation, gender
205 identity or expression, handicap, or marital status.

206 (b) To limit, segregate, or classify its membership or
207 applicants for membership, or to classify or fail or refuse to

208 refer for employment any individual, in any way that would
209 deprive or tend to deprive any individual of employment
210 opportunities, or adversely affect any individual's status as an
211 employee or as an applicant for employment, because of or based
212 on the perception of such individual's race, color, religion,
213 sex, pregnancy, national origin, age, sexual orientation, gender
214 identity or expression, handicap, or marital status.

215 (4) It is an unlawful employment practice for any
216 employer, labor organization, or joint labor-management
217 committee controlling apprenticeship or other training or
218 retraining, including on-the-job training programs, to
219 discriminate against any individual because of or based on the
220 perception of race, color, religion, sex, pregnancy, national
221 origin, age, sexual orientation, gender identity or expression,
222 handicap, or marital status in admission to, or employment in,
223 any program established to provide apprenticeship or other
224 training.

225 (5) Whenever, in order to engage in a profession,
226 occupation, or trade, it is required that a person receive a
227 license, certification, or other credential, become a member or
228 an associate of any club, association, or other organization, or
229 pass any examination, it is an unlawful employment practice for
230 any person to discriminate against any other person seeking such
231 license, certification, or other credential, seeking to become a
232 member or associate of such club, association, or other
233 organization, or seeking to take or pass such examination,

234 because of or based on the perception of such other person's
235 race, color, religion, sex, pregnancy, national origin, age,
236 sexual orientation, gender identity or expression handicap, or
237 marital status.

238 (6) It is an unlawful employment practice for an employer,
239 labor organization, employment agency, or joint labor-management
240 committee to print, or cause to be printed or published, any
241 notice or advertisement relating to employment, membership,
242 classification, referral for employment, or apprenticeship or
243 other training, indicating any preference, limitation,
244 specification, or discrimination, based on a person's actual or
245 perceived race, color, religion, sex, pregnancy, national
246 origin, age, sexual orientation, gender identity or expression,
247 absence of handicap, or marital status.

248 (8) Notwithstanding any other provision of this section,
249 it is not an unlawful employment practice under ss. 760.01-
250 760.10 for an employer, employment agency, labor organization,
251 or joint labor-management committee to:

252 (a) Take or fail to take any action on the basis of a
253 person's actual or perceived religion, sex, pregnancy, national
254 origin, age, sexual orientation, gender identity or expression,
255 handicap, or marital status in those certain instances in which
256 religion, sex, condition of pregnancy, national origin, age,
257 sexual orientation, gender identity or expression, absence of a
258 particular handicap, or marital status is a bona fide
259 occupational qualification reasonably necessary for the

260 performance of the particular employment to which such action or
261 inaction is related.

262 (9) (a) This section shall not apply to any religious
263 corporation, association, educational institution, or society
264 which conditions opportunities in the area of employment or
265 public accommodation to members of that religious corporation,
266 association, educational institution, or society or to persons
267 who subscribe to its tenets or beliefs.

268 (b) This section shall not prohibit a religious
269 corporation, association, educational institution, or society
270 from giving preference in employment to individuals of a
271 particular religion to perform work connected with the carrying
272 on by such corporations, associations, educational institutions,
273 or societies of its various activities.

274 (c) This section and s. 760.08 shall not apply to limit
275 the free exercise of religion guaranteed by the United States
276 Constitution and the State Constitution.

277 Section 8. Section 509.092, Florida Statutes, is amended
278 to read:

279 509.092 Public lodging establishments and public food
280 service establishments; rights as private enterprises.—

281 (1) Public lodging establishments and public food service
282 establishments are private enterprises, and the operator has the
283 right to refuse accommodations or service to any person who is
284 objectionable or undesirable to the operator, but such refusal
285 may not be based upon the person's actual or perceived race,

286 | creed, color, sex, pregnancy, physical disability, sexual
 287 | orientation, gender identity or expression, or national origin.

288 | (2) A person aggrieved by a violation of this section or a
 289 | violation of a rule adopted under this section has a right of
 290 | action pursuant to s. 760.11.

291 | (3) This section shall not limit the free exercise of
 292 | religion guaranteed by the United States Constitution and the
 293 | Florida Constitution.

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

296 | 760.22 Definitions.—As used in ss. 760.20–760.37, the
 297 | term:

298 | (1) "Commission" means the Florida Commission on Human
 299 | Relations.

300 | (2) "Covered multifamily dwelling" means:

301 | (a) A building that ~~which~~ consists of four or more units
 302 | and has an elevator; or

303 | (b) The ground floor units of a building that ~~which~~
 304 | consists of four or more units and does not have an elevator.

305 | (3) "Discriminatory housing practice" means an act that is
 306 | unlawful under the terms of ss. 760.20–760.37.

307 | (4) "Dwelling" means any building or structure, or portion
 308 | thereof, which is occupied as, or designed or intended for
 309 | occupancy as, a residence by one or more families, and any
 310 | vacant land that ~~which~~ is offered for sale or lease for the

311 construction or location on the land of any such building or
312 structure, or portion thereof.

313 (5) "Familial status" is established when an individual
314 who has not attained the age of 18 years is domiciled with:

315 (a) A parent or other person having legal custody of such
316 individual; or

317 (b) A designee of a parent or other person having legal
318 custody, with the written permission of such parent or other
319 person.

320 (6) "Family" includes a single individual.

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

323 (8)~~(7)~~ "Handicap" means:

324 (a) A person has a physical or mental impairment which
325 substantially limits one or more major life activities, or he or
326 she has a record of having, or is regarded as having, such
327 physical or mental impairment; or

328 (b) A person has a developmental disability as defined in
329 s. 393.063.

330 (9)~~(8)~~ "Person" includes one or more individuals,
331 corporations, partnerships, associations, labor organizations,
332 legal representatives, mutual companies, joint-stock companies,
333 trusts, unincorporated organizations, trustees, trustees in
334 bankruptcy, receivers, and fiduciaries.

335 (10) "Sexual orientation" has the same meaning as provided
336 in s. 760.02.

337 ~~(11)~~~~(9)~~ "Substantially equivalent" means an administrative
 338 subdivision of the State of Florida meeting the requirements of
 339 24 C.F.R. part 115, s. 115.6.

340 ~~(12)~~~~(10)~~ "To rent" includes to lease, to sublease, to let,
 341 and otherwise to grant for a consideration the right to occupy
 342 premises not owned by the occupant.

343 Section 10. Subsections (1) through (5) of section 760.23,
 344 Florida Statutes, are amended to read:

345 760.23 Discrimination in the sale or rental of housing and
 346 other prohibited practices.—

347 (1) It is unlawful to refuse to sell or rent after the
 348 making of a bona fide offer, to refuse to negotiate for the sale
 349 or rental of, or otherwise to make unavailable or deny a
 350 dwelling to any person because of or based on the perception of
 351 race, color, national origin, sex, sexual orientation, gender
 352 identity or expression, handicap, familial status, or religion.

353 (2) It is unlawful to discriminate against any person in
 354 the terms, conditions, or privileges of sale or rental of a
 355 dwelling, or in the provision of services or facilities in
 356 connection therewith, because of or based on the perception of
 357 race, color, national origin, sex, sexual orientation, gender
 358 identity or expression, handicap, familial status, or religion.

359 (3) It is unlawful to make, print, or publish, or cause to
 360 be made, printed, or published, any notice, statement, or
 361 advertisement with respect to the sale or rental of a dwelling
 362 that indicates any preference, limitation, or discrimination

363 based on a person's actual or perceived race, color, national
364 origin, sex, sexual orientation, gender identity or expression,
365 handicap, familial status, or religion or an intention to make
366 any such preference, limitation, or discrimination.

367 (4) It is unlawful to represent to any person because of
368 or based on the perception of the person's race, color, national
369 origin, sex, sexual orientation, gender identity or expression,
370 handicap, familial status, or religion that any dwelling is not
371 available for inspection, sale, or rental when such dwelling is
372 in fact so available.

373 (5) It is unlawful, for profit, to induce or attempt to
374 induce any person to sell or rent any dwelling by a
375 representation regarding the entry or prospective entry into the
376 neighborhood of a person or persons of or perceived to be of a
377 particular race, color, national origin, sex, sexual
378 orientation, gender identity or expression, handicap, familial
379 status, or religion.

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

382 760.24 Discrimination in the provision of brokerage
383 services.—It is unlawful to deny any person access to, or
384 membership or participation in, any multiple-listing service,
385 real estate brokers' organization, or other service,
386 organization, or facility relating to the business of selling or
387 renting dwellings, or to discriminate against him or her in the
388 terms or conditions of such access, membership, or

389 participation, on account of or based on the perception of race,
390 color, national origin, sex, sexual orientation, gender identity
391 or expression, handicap, familial status, or religion.

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

394 760.25 Discrimination in the financing of housing or in
395 residential real estate transactions.-

396 (1) It is unlawful for any bank, building and loan
397 association, insurance company, or other corporation,
398 association, firm, or enterprise the business of which consists
399 in whole or in part of the making of commercial real estate
400 loans to deny a loan or other financial assistance to a person
401 applying for the loan for the purpose of purchasing,
402 constructing, improving, repairing, or maintaining a dwelling,
403 or to discriminate against him or her in the fixing of the
404 amount, interest rate, duration, or other term or condition of
405 such loan or other financial assistance, because of or based on
406 the perception of the race, color, national origin, sex, sexual
407 orientation, gender identity or expression, handicap, familial
408 status, or religion of such person or of any person associated
409 with him or her in connection with such loan or other financial
410 assistance or the purposes of such loan or other financial
411 assistance, or because of or based on the perception of the
412 race, color, national origin, sex, sexual orientation, gender
413 identity or expression, handicap, familial status, or religion
414 of the present or prospective owners, lessees, tenants, or

415 occupants of the dwelling or dwellings in relation to which such
 416 loan or other financial assistance is to be made or given.

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

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

426 760.26 Prohibited discrimination in land use decisions and
 427 in permitting of development.—It is unlawful to discriminate in
 428 land use decisions or in the permitting of development based on
 429 a person's actual or perceived race, color, national origin,
 430 sex, sexual orientation, gender identity or expression,
 431 disability, familial status, religion, or, except as otherwise
 432 provided by law, the source of financing of a development or
 433 proposed development.

434 Section 14. Paragraph (a) of subsection (5) of section
 435 760.29, Florida Statutes, is amended to read:

436 760.29 Exemptions.—

437 (5) Nothing in ss. 760.20–760.37:

438 (a) Prohibits a person engaged in the business of
 439 furnishing appraisals of real property from taking into
 440 consideration factors other than race, color, national origin,

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441 sex, sexual orientation, gender identity or expression,
442 handicap, familial status, or religion.

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

445 760.60 Discriminatory practices of certain clubs
446 prohibited; remedies.—

447 (1) It is unlawful for a person to discriminate against
448 any individual because of or based on the perception of race,
449 color, religion, gender, national origin, handicap, age above
450 the age of 21, sexual orientation, gender identity or
451 expression, or marital status in evaluating an application for
452 membership in a club that has more than 400 members, that
453 provides regular meal service, and that regularly receives
454 payment for dues, fees, use of space, facilities, services,
455 meals, or beverages directly or indirectly from nonmembers for
456 business purposes. It is unlawful for a person, on behalf of
457 such a club, to publish, circulate, issue, display, post, or
458 mail any advertisement, notice, or solicitation that contains a
459 statement to the effect that the accommodations, advantages,
460 facilities, membership, or privileges of the club are denied to
461 any individual because of or based on the perception of race,
462 color, religion, gender, national origin, handicap, age above
463 the age of 21, sexual orientation, gender identity or
464 expression, or marital status. This subsection does not apply to
465 fraternal or benevolent organizations, ethnic clubs, or

466 religious organizations where business activity is not
 467 prevalent.

468 Section 16. Paragraph (e) of subsection (1) of section
 469 419.001, Florida Statutes, is amended to read:

470 419.001 Site selection of community residential homes.—

471 (1) For the purposes of this section, the term:

472 (e) "Resident" means any of the following: a frail elder
 473 as defined in s. 429.65; a person who has a handicap as defined
 474 in s. 760.22(8)(a) ~~760.22(7)(a)~~; a person who has a
 475 developmental disability as defined in s. 393.063; a
 476 nondangerous person who has a mental illness as defined in s.
 477 394.455; or a child who is found to be dependent as defined in
 478 s. 39.01 or s. 984.03, or a child in need of services as defined
 479 in s. 984.03 or s. 985.03.

480 Section 17. This act shall take effect July 1, 2016.