

By Senator Abruzzo

25-00121-16

2016120__

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; amending s.
10 760.02, F.S.; adding definitions; amending ss. 760.05,
11 760.07, and 760.08, F.S.; adding sexual orientation
12 and gender identity or expression as impermissible
13 grounds for discrimination; conforming terminology;
14 amending s. 760.10, F.S.; adding sexual orientation
15 and gender identity or expression as impermissible
16 grounds for discrimination; providing an exception for
17 constitutionally protected free exercise of religion;
18 amending s. 509.092, F.S.; adding sexual orientation
19 and gender identity or expression as impermissible
20 grounds for discrimination in public lodging
21 establishments and public food service establishments;
22 providing an exception for constitutionally protected
23 free exercise of religion; amending s. 760.22, F.S.;
24 adding definitions; amending ss. 760.23, 760.24,
25 760.25, 760.26, 760.29, and 760.60, F.S.; adding
26 sexual orientation and gender identity or expression
27 as impermissible grounds for discrimination; amending
28 s. 419.001, F.S.; conforming a cross-reference;
29 providing an effective date.

25-00121-16

2016120__

30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

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

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

Section 2. Subsection (1) of section 760.01, Florida Statutes, is republished, and subsection (2) of that section is amended, to read:

760.01 Purposes; construction; title.—

(1) Sections 760.01-760.11 and 509.092 shall be cited as the "Florida Civil Rights Act of 1992."

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

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

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

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

(2) "Commission" means the Florida Commission on Human

25-00121-16

2016120__

59 Relations created by s. 760.03.

60 (3) "Commissioner" or "member" means a member of the
61 commission.

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

64 ~~(10)~~~~(5)~~ "National origin" includes ancestry.

65 ~~(11)~~~~(6)~~ "Person" includes an individual, association,
66 corporation, joint apprenticeship committee, joint-stock
67 company, labor union, legal representative, mutual company,
68 partnership, receiver, trust, trustee in bankruptcy, or
69 unincorporated organization; any other legal or commercial
70 entity; the state; or any governmental entity or agency.

71 ~~(5)~~~~(7)~~ "Employer" means any person employing 15 or more
72 employees for each working day in each of 20 or more calendar
73 weeks in the current or preceding calendar year, and any agent
74 of such a person.

75 ~~(6)~~~~(8)~~ "Employment agency" means any person regularly
76 undertaking, with or without compensation, to procure employees
77 for an employer or to procure for employees opportunities to
78 work for an employer, and includes an agent of such a person.

79 (8) "Gender identity or expression" means gender-related
80 identity, appearance, or behavior, regardless of whether such
81 gender-related identity, appearance, or behavior is different
82 from that traditionally associated with the person's physiology
83 or assigned sex at birth, and which gender-related identity can
84 be shown by the person providing evidence, including, but not
85 limited to:

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

25-00121-16

2016120__

88 (b) Consistent and uniform assertion of the gender-related
89 identity; or

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

93 (9) "Labor organization" means any organization which
94 exists for the purpose, in whole or in part, of collective
95 bargaining or of dealing with employers concerning grievances,
96 terms or conditions of employment, or other mutual aid or
97 protection in connection with employment.

98 (1) ~~(10)~~ "Aggrieved person" means any person who files a
99 complaint with the Florida Commission on Human Relations
100 Commission.

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

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

114 (b) Any restaurant, cafeteria, lunchroom, lunch counter,
115 soda fountain, or other facility principally engaged in selling
116 food for consumption on the premises, including, but not limited

25-00121-16

2016120__

117 to, any such facility located on the premises of any retail
118 establishment, or any gasoline station.

119 (c) Any motion picture theater, theater, concert hall,
120 sports arena, stadium, or other place of exhibition or
121 entertainment.

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

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

129 Section 4. Section 760.05, Florida Statutes, is amended to
130 read:

131 760.05 Functions of the commission.—The commission shall
132 promote and encourage fair treatment and equal opportunity for
133 all persons regardless of race, color, religion, sex, pregnancy,
134 national origin, age, sexual orientation, gender identity or
135 expression, handicap, or marital status and mutual understanding
136 and respect among all members of society. The commission all
137 ~~economic, social, racial, religious, and ethnic groups; and~~
138 shall endeavor to eliminate discrimination against, and
139 antagonism between, persons on the basis of, or based on the
140 perception of, race, color, religion, sex, pregnancy, national
141 origin, age, sexual orientation, gender identity or expression,
142 handicap, or marital status ~~religious, racial, and ethnic groups~~
143 ~~and their members.~~

144 Section 5. Section 760.07, Florida Statutes, is amended to
145 read:

25-00121-16

2016120__

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

164 Section 6. Section 760.08, Florida Statutes, is amended to
165 read:

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

174 Section 7. Subsections (1) and (2), paragraphs (a) and (b)

25-00121-16

2016120__

175 of subsection (3), subsections (4), (5), and (6), paragraph (a)
176 of subsection (8), and subsection (9) of section 760.10, Florida
177 Statutes, are amended, and subsection (10) of that section is
178 republished, to read:

179 760.10 Unlawful employment practices.—

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

181 (a) To discharge or to fail or refuse to hire any
182 individual, or otherwise to discriminate against any individual
183 with respect to compensation, terms, conditions, or privileges
184 of employment, because of, or based on the perception of, such
185 individual's race, color, religion, sex, pregnancy, national
186 origin, age, sexual orientation, gender identity or expression,
187 handicap, or marital status.

188 (b) To limit, segregate, or classify employees or
189 applicants for employment in any way that ~~which~~ would deprive or
190 tend to deprive any individual of employment opportunities, or
191 adversely affect any individual's status as an employee, because
192 of, or based on the perception of, such individual's race,
193 color, religion, sex, pregnancy, national origin, age, sexual
194 orientation, gender identity or expression, handicap, or marital
195 status.

196 (2) It is an unlawful employment practice for an employment
197 agency to fail or refuse to refer for employment, or otherwise
198 to discriminate against, any individual because of, or based on
199 the perception of, race, color, religion, sex, pregnancy,
200 national origin, age, sexual orientation, gender identity or
201 expression, handicap, or marital status or to classify or refer
202 for employment any individual on the basis of, or based on the
203 perception of, race, color, religion, sex, pregnancy, national

25-00121-16

2016120__

204 origin, age, sexual orientation, gender identity or expression,
205 handicap, or marital status.

206 (3) It is an unlawful employment practice for a labor
207 organization:

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

213 (b) To limit, segregate, or classify its membership or
214 applicants for membership, or to classify or fail or refuse to
215 refer for employment any individual, in any way that would
216 deprive or tend to deprive any individual of employment
217 opportunities, or adversely affect any individual's status as an
218 employee or as an applicant for employment, because of, or based
219 on the perception of, such individual's race, color, religion,
220 sex, pregnancy, national origin, age, sexual orientation, gender
221 identity or expression, handicap, or marital status.

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

231 (5) Whenever, in order to engage in a profession,
232 occupation, or trade, it is required that a person receive a

25-00121-16

2016120__

233 license, certification, or other credential;~~;~~ become a member or
234 an associate of any club, association, or other organization;~~;~~
235 or pass any examination, it is an unlawful employment practice
236 for any person to discriminate against any other person seeking
237 such license, certification, or other credential;~~;~~ seeking to
238 become a member or associate of such club, association, or other
239 organization;~~;~~ or seeking to take or pass such examination,
240 because of, or based on the perception of, such other person's
241 race, color, religion, sex, pregnancy, national origin, age,
242 sexual orientation, gender identity or expression, handicap, or
243 marital status.

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

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

258 (a) Take or fail to take any action on the basis of a
259 person's actual or perceived religion, sex, pregnancy, national
260 origin, age, sexual orientation, gender identity or expression,
261 handicap, or marital status in those certain instances in which

25-00121-16

2016120__

262 religion, sex, condition of pregnancy, national origin, age,
263 sexual orientation, gender identity or expression, absence of a
264 particular handicap, or marital status is a bona fide
265 occupational qualification reasonably necessary for the
266 performance of the particular employment to which such action or
267 inaction is related.

268 (9) (a) This section does ~~shall~~ not apply to any religious
269 corporation, association, educational institution, or society
270 which conditions opportunities in the area of employment or
271 public accommodation to members of that religious corporation,
272 association, educational institution, or society or to persons
273 who subscribe to its tenets or beliefs.

274 (b) This section does ~~shall~~ not prohibit a religious
275 corporation, association, educational institution, or society
276 from giving preference in employment to individuals of a
277 particular religion to perform work connected with the carrying
278 on by such corporations, associations, educational institutions,
279 or societies of its various activities.

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

283 (10) Each employer, employment agency, and labor
284 organization shall post and keep posted in conspicuous places
285 upon its premises a notice provided by the commission setting
286 forth such information as the commission deems appropriate to
287 effectuate the purposes of ss. 760.01-760.10.

288 Section 8. Section 509.092, Florida Statutes, is amended to
289 read:

290 509.092 Public lodging establishments and public food

25-00121-16

2016120__

291 service establishments; rights as private enterprises.—

292 (1) Public lodging establishments and public food service
293 establishments are private enterprises, and the operator has the
294 right to refuse accommodations or service to any person who is
295 objectionable or undesirable to the operator, but such refusal
296 may not be based upon the person's actual or perceived race,
297 creed, color, sex, pregnancy, physical disability, sexual
298 orientation, gender identity or expression, or national origin.

299 (2) A person aggrieved by a violation of this section or a
300 violation of a rule adopted under this section has a right of
301 action pursuant to s. 760.11.

302 (3) This section does not limit the free exercise of
303 religion guaranteed by the United States Constitution and the
304 State Constitution.

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

307 760.22 Definitions.—As used in this part ~~ss. 760.20–760.37,~~
308 the term:

309 (1) "Commission" means the Florida Commission on Human
310 Relations.

311 (2) "Covered multifamily dwelling" means:

312 (a) A building that ~~which~~ consists of four or more units
313 and has an elevator; or

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

316 (3) "Discriminatory housing practice" means an act that is
317 unlawful under the terms of this part ~~ss. 760.20–760.37.~~

318 (4) "Dwelling" means any building or structure, or portion
319 thereof, which is occupied as, or designed or intended for

25-00121-16

2016120__

320 occupancy as, a residence by one or more families, and any
321 vacant land that ~~which~~ is offered for sale or lease for the
322 construction or location on the land of any such building or
323 structure, or portion thereof.

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

326 (a) A parent or other person having legal custody of such
327 individual; or

328 (b) A designee of a parent or other person having legal
329 custody, with the written permission of such parent or other
330 person.

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

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

334 (8)~~(7)~~ "Handicap" means:

335 (a) A ~~person has a~~ physical or mental impairment that ~~which~~
336 substantially limits one or more major life activities for a
337 person who has, ~~or he or she~~ has a record of having, or is
338 regarded as having that, ~~such~~ physical or mental impairment; or

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

341 (9)~~(8)~~ "Person" includes one or more individuals,
342 corporations, partnerships, associations, labor organizations,
343 legal representatives, mutual companies, joint-stock companies,
344 trusts, unincorporated organizations, trustees, trustees in
345 bankruptcy, receivers, and fiduciaries.

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

348 (11)~~(9)~~ "Substantially equivalent" means an administrative

25-00121-16

2016120__

349 subdivision of the State of Florida meeting the requirements of
350 24 C.F.R. part 115, s. 115.6.

351 (12)~~(10)~~ "To rent" includes to lease, to sublease, to let,
352 and otherwise to grant for a consideration the right to occupy
353 premises not owned by the occupant.

354 Section 10. Subsections (1) - (5) of section 760.23,
355 Florida Statutes, are amended to read:

356 760.23 Discrimination in the sale or rental of housing and
357 other prohibited practices.—

358 (1) It is unlawful to refuse to sell or rent after the
359 making of a bona fide offer, to refuse to negotiate for the sale
360 or rental of, or otherwise to make unavailable or deny a
361 dwelling to any person because of, or based on the perception
362 of, race, color, national origin, sex, sexual orientation,
363 gender identity or expression, handicap, familial status, or
364 religion.

365 (2) It is unlawful to discriminate against any person in
366 the terms, conditions, or privileges of sale or rental of a
367 dwelling, or in the provision of services or facilities in
368 connection therewith, because of, or based on the perception of,
369 race, color, national origin, sex, sexual orientation, gender
370 identity or expression, handicap, familial status, or religion.

371 (3) It is unlawful to make, print, or publish, or cause to
372 be made, printed, or published, any notice, statement, or
373 advertisement with respect to the sale or rental of a dwelling
374 that indicates any preference, limitation, or discrimination
375 based on a person's actual or perceived race, color, national
376 origin, sex, sexual orientation, gender identity or expression,
377 handicap, familial status, or religion or an intention to make

25-00121-16

2016120__

378 any such preference, limitation, or discrimination.

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

385 (5) It is unlawful, for profit, to induce or attempt to
386 induce any person to sell or rent any dwelling by a
387 representation regarding the entry or prospective entry into the
388 neighborhood of a person or persons of, or perceived to be of, a
389 particular race, color, national origin, sex, sexual
390 orientation, gender identity or expression, handicap, familial
391 status, or religion.

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

394 760.24 Discrimination in the provision of brokerage
395 services.—It is unlawful to deny any person access to, or
396 membership or participation in, any multiple-listing service,
397 real estate brokers' organization, or other service,
398 organization, or facility relating to the business of selling or
399 renting dwellings, or to discriminate against him or her in the
400 terms or conditions of such access, membership, or
401 participation, because ~~on account~~ of, or based on the perception
402 of, race, color, national origin, sex, sexual orientation,
403 gender identity or expression, handicap, familial status, or
404 religion.

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

25-00121-16

2016120__

407 760.25 Discrimination in the financing of housing or in
408 residential real estate transactions.—

409 (1) It is unlawful for any bank, building and loan
410 association, insurance company, or other corporation,
411 association, firm, or enterprise the business of which consists
412 in whole or in part of the making of commercial real estate
413 loans to deny a loan or other financial assistance to a person
414 applying for the loan for the purpose of purchasing,
415 constructing, improving, repairing, or maintaining a dwelling,
416 or to discriminate against him or her in the fixing of the
417 amount, interest rate, duration, or other term or condition of
418 such loan or other financial assistance, because of, or based on
419 the perception of, the race, color, national origin, sex, sexual
420 orientation, gender identity or expression, handicap, familial
421 status, or religion of such person or of any person associated
422 with him or her in connection with such loan or other financial
423 assistance or the purposes of such loan or other financial
424 assistance, or because of, or based on the perception of, the
425 race, color, national origin, sex, sexual orientation, gender
426 identity or expression, handicap, familial status, or religion
427 of the present or prospective owners, lessees, tenants, or
428 occupants of the dwelling or dwellings in relation to which such
429 loan or other financial assistance is to be made or given.

430 (2) (a) It is unlawful for any person or entity whose
431 business includes engaging in residential real estate
432 transactions to discriminate against any person in making
433 available such a transaction, or in the terms or conditions of
434 such a transaction, because of, or based on the perception of,
435 race, color, national origin, sex, sexual orientation, gender

25-00121-16

2016120__

436 identity or expression, handicap, familial status, or religion.

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

439 760.26 Prohibited discrimination in land use decisions and
440 in permitting of development.—It is unlawful to discriminate in
441 land use decisions or in the permitting of development based on
442 a person's actual or perceived race, color, national origin,
443 sex, sexual orientation, gender identity or expression,
444 disability, familial status, religion, or, except as otherwise
445 provided by law, the source of financing of a development or
446 proposed development.

447 Section 14. Paragraph (a) of subsection (5) of section
448 760.29, Florida Statutes, is amended to read:

449 760.29 Exemptions.—

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

451 (a) Prohibits a person engaged in the business of
452 furnishing appraisals of real property from taking into
453 consideration factors other than race, color, national origin,
454 sex, sexual orientation, gender identity or expression,
455 handicap, familial status, or religion.

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

458 760.60 Discriminatory practices of certain clubs
459 prohibited; remedies.—

460 (1) It is unlawful for a person to discriminate against any
461 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 in evaluating an application for

25-00121-16

2016120__

465 membership in a club that has more than 400 members, that
466 provides regular meal service, and that regularly receives
467 payment for dues, fees, use of space, facilities, services,
468 meals, or beverages directly or indirectly from nonmembers for
469 business purposes. It is unlawful for a person, on behalf of
470 such a club, to publish, circulate, issue, display, post, or
471 mail any advertisement, notice, or solicitation that contains a
472 statement to the effect that the accommodations, advantages,
473 facilities, membership, or privileges of the club are denied to
474 any individual because of, or based on the perception of, race,
475 color, religion, gender, national origin, handicap, age above
476 the age of 21, sexual orientation, gender identity or
477 expression, or marital status. This subsection does not apply to
478 fraternal or benevolent organizations, ethnic clubs, or
479 religious organizations where business activity is not
480 prevalent.

481 Section 16. Paragraph (e) of subsection (1) of section
482 419.001, Florida Statutes, is amended to read:

483 419.001 Site selection of community residential homes.—

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

485 (e) "Resident" means any of the following: a frail elder as
486 defined in s. 429.65; a person who has a handicap as defined in
487 s. 760.22(8)(a) ~~s. 760.22(7)(a)~~; a person who has a
488 developmental disability as defined in s. 393.063; a
489 nondangerous person who has a mental illness as defined in s.
490 394.455; or a child who is found to be dependent as defined in
491 s. 39.01 or s. 984.03, or a child in need of services as defined
492 in s. 984.03 or s. 985.03.

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