



131762

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/10/2016	.	
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The Committee on Judiciary (Simmons) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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



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12 the "Florida Civil Rights Act of 1992."

13 (2) The general purposes of the Florida Civil Rights Act of  
14 1992 are to secure for all individuals within the state freedom  
15 from discrimination because of race, color, religion, sex,  
16 pregnancy, national origin, age, sexual orientation, gender  
17 identity, handicap, or marital status and thereby to protect  
18 their interest in personal dignity, to make available to the  
19 state their full productive capacities, to secure the state  
20 against domestic strife and unrest, to preserve the public  
21 safety, health, and general welfare, and to promote the  
22 interests, rights, and privileges of individuals within the  
23 state.

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

26 760.02 Definitions.—For the purposes of ss. 760.01-760.11  
27 and 509.092, the term:

28 (7)~~(1)~~ "Florida Civil Rights Act of 1992" means ss. 760.01-  
29 760.11 and 509.092.

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

32 (3) "Commissioner" or "member" means a member of the  
33 commission.

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

36 (10)~~(5)~~ "National origin" includes ancestry.

37 (11)~~(6)~~ "Person" includes an individual, association,  
38 corporation, joint apprenticeship committee, joint-stock  
39 company, labor union, legal representative, mutual company,  
40 partnership, receiver, trust, trustee in bankruptcy, or



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41 unincorporated organization; any other legal or commercial  
42 entity; the state; or any governmental entity or agency.

43 (5)~~(7)~~ "Employer" means any person employing 15 or more  
44 employees for each working day in each of 20 or more calendar  
45 weeks in the current or preceding calendar year, and any agent  
46 of such a person.

47 (6)~~(8)~~ "Employment agency" means any person regularly  
48 undertaking, with or without compensation, to procure employees  
49 for an employer or to procure for employees opportunities to  
50 work for an employer, and includes an agent of such a person.

51 (8) "Gender identity" means gender-related identity,  
52 appearance, or behavior, regardless of whether such gender-  
53 related identity, appearance, or behavior is different from that  
54 traditionally associated with the person's physiology or  
55 assigned sex at birth, and which gender-related identity can be  
56 shown by the person providing clear evidence based upon medical  
57 history, care, or treatment of the gender-related identity; and

58 (a) Consistent and uniform assertion of the gender-related  
59 identity; or

60 (b) Other evidence that the gender-related identity is a  
61 sincerely held part of a person's core identity and is not being  
62 asserted for an improper purpose.

63 (9) "Labor organization" means any organization which  
64 exists for the purpose, in whole or in part, of collective  
65 bargaining or of dealing with employers concerning grievances,  
66 terms or conditions of employment, or other mutual aid or  
67 protection in connection with employment.

68 (1)~~(10)~~ "Aggrieved person" means any person who files a  
69 complaint with the Florida Commission on Human Relations



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70 ~~Commission.~~

71       (12)~~(11)~~ "Public accommodations" means places of public  
72 accommodation, lodgings, facilities principally engaged in  
73 selling food for consumption on the premises, gasoline stations,  
74 places of exhibition or entertainment, and other such covered  
75 establishments. The term does not include lodge halls, churches,  
76 synagogues, worship centers, or other similar facilities of  
77 private organizations even if they are made available for public  
78 use occasionally or periodically. Each of the following  
79 establishments which serves the public is a place of public  
80 accommodation within the meaning of this section:

81       (a) Any inn, hotel, motel, or other establishment that  
82 ~~which~~ provides lodging to transient guests, other than an  
83 establishment located within a building that ~~which~~ contains not  
84 more than four rooms for rent or hire and that ~~which~~ is actually  
85 occupied by the proprietor of such establishment as his or her  
86 residence.

87       (b) Any restaurant, cafeteria, lunchroom, lunch counter,  
88 soda fountain, or other facility principally engaged in selling  
89 food for consumption on the premises, including, but not limited  
90 to, any such facility located on the premises of any retail  
91 establishment, or any gasoline station.

92       (c) Any motion picture theater, theater, concert hall,  
93 sports arena, stadium, or other place of exhibition or  
94 entertainment.

95       (d) Any establishment that ~~which~~ is physically located  
96 within the premises of any establishment otherwise covered by  
97 this subsection, or within the premises of which is physically  
98 located any such covered establishment, and that ~~which~~ holds



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99 itself out as serving patrons of such covered establishment.

100 (13) "Sexual orientation" means an individual's human  
101 heterosexuality, homosexuality, or bisexuality.

102 Section 4. Section 760.05, Florida Statutes, is amended to  
103 read:

104 760.05 Functions of the commission.—The commission shall  
105 promote and encourage fair treatment and equal opportunity for  
106 all persons regardless of race, color, religion, sex, pregnancy,  
107 national origin, age, sexual orientation, gender identity,  
108 handicap, or marital status and mutual understanding and respect  
109 among all members of society. The commission ~~all economic,~~  
110 ~~social, racial, religious, and ethnic groups;~~ and shall endeavor  
111 to eliminate discrimination against, and antagonism between,  
112 persons on the basis of improper considerations relating to  
113 race, color, religion, sex, pregnancy, national origin, age,  
114 sexual orientation, gender identity, handicap, or marital status  
115 ~~religious, racial, and ethnic groups and their members.~~

116 Section 5. Section 760.07, Florida Statutes, is amended to  
117 read:

118 760.07 Remedies for unlawful discrimination.—Any violation  
119 of any Florida statute making unlawful discrimination because of  
120 race, color, religion, gender, pregnancy, national origin, age,  
121 sexual orientation, gender identity, handicap, or marital status  
122 in the areas of education, employment, housing, or public  
123 accommodations gives rise to a cause of action for all relief  
124 and damages described in s. 760.11(5), unless greater damages  
125 are expressly provided for. If the statute prohibiting unlawful  
126 discrimination provides an administrative remedy, the action for  
127 equitable relief and damages provided for in this section may be



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128 initiated only after the plaintiff has exhausted his or her  
129 administrative remedy. ~~The term "public accommodations" does not~~  
130 ~~include lodge halls or other similar facilities of private~~  
131 ~~organizations which are made available for public use~~  
132 ~~occasionally or periodically.~~ The right to trial by jury is  
133 preserved in any case in which the plaintiff is seeking actual  
134 or punitive damages.

135 Section 6. Section 760.08, Florida Statutes, is amended to  
136 read:

137 760.08 Discrimination in places of public accommodation.—  
138 All persons are entitled to the full and equal enjoyment of the  
139 goods, services, facilities, privileges, advantages, and  
140 accommodations of any place of public accommodation without  
141 discrimination or segregation on the ground of race, color,  
142 national origin, sex, sexual orientation, gender identity,  
143 pregnancy, handicap, familial status, or religion.

144 Section 7. Subsections (1) and (2), paragraphs (a) and (b)  
145 of subsection (3), subsections (4), (5), and (6), paragraph (a)  
146 of subsection (8), and subsection (9) of section 760.10, Florida  
147 Statutes, are amended, and subsection (10) of that section is  
148 republished, to read:

149 760.10 Unlawful employment practices.—

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

151 (a) To discharge or to fail or refuse to hire any  
152 individual, or otherwise to discriminate against any individual  
153 with respect to compensation, terms, conditions, or privileges  
154 of employment, because of such individual's race, color,  
155 religion, sex, pregnancy, national origin, age, sexual  
156 orientation, gender identity, handicap, or marital status.



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157 (b) To limit, segregate, or classify employees or  
158 applicants for employment in any way that ~~which~~ would deprive or  
159 tend to deprive any individual of employment opportunities, or  
160 adversely affect any individual's status as an employee, because  
161 of such individual's race, color, religion, sex, pregnancy,  
162 national origin, age, sexual orientation, gender identity,  
163 handicap, or marital status.

164 (2) It is an unlawful employment practice for an employment  
165 agency to fail or refuse to refer for employment, or otherwise  
166 to discriminate against, any individual because of race, color,  
167 religion, sex, pregnancy, national origin, age, sexual  
168 orientation, gender identity, handicap, or marital status or to  
169 classify or refer for employment any individual on the basis of  
170 race, color, religion, sex, pregnancy, national origin, age,  
171 sexual orientation, gender identity, handicap, or marital  
172 status.

173 (3) It is an unlawful employment practice for a labor  
174 organization:

175 (a) To exclude or to expel from its membership, or  
176 otherwise to discriminate against, any individual because of  
177 race, color, religion, sex, pregnancy, national origin, age,  
178 sexual orientation, gender identity, handicap, or marital  
179 status.

180 (b) To limit, segregate, or classify its membership or  
181 applicants for membership, or to classify or fail or refuse to  
182 refer for employment any individual, in any way that would  
183 deprive or tend to deprive any individual of employment  
184 opportunities, or adversely affect any individual's status as an  
185 employee or as an applicant for employment, because of such



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186 individual's race, color, religion, sex, pregnancy, national  
187 origin, age, sexual orientation, gender identity, handicap, or  
188 marital status.

189 (4) It is an unlawful employment practice for any employer,  
190 labor organization, or joint labor-management committee  
191 controlling apprenticeship or other training or retraining,  
192 including on-the-job training programs, to discriminate against  
193 any individual because of race, color, religion, sex, pregnancy,  
194 national origin, age, sexual orientation, gender identity,  
195 handicap, or marital status in admission to, or employment in,  
196 any program established to provide apprenticeship or other  
197 training.

198 (5) Whenever, in order to engage in a profession,  
199 occupation, or trade, it is required that a person receive a  
200 license, certification, or other credential;~~;~~ become a member or  
201 an associate of any club, association, or other organization;~~;~~  
202 or pass any examination, it is an unlawful employment practice  
203 for any person to discriminate against any other person seeking  
204 such license, certification, or other credential;~~;~~ seeking to  
205 become a member or associate of such club, association, or other  
206 organization;~~;~~ or seeking to take or pass such examination,  
207 because of such other person's race, color, religion, sex,  
208 pregnancy, national origin, age, sexual orientation, gender  
209 identity, handicap, or marital status.

210 (6) It is an unlawful employment practice for an employer,  
211 a labor organization, an employment agency, or a joint labor-  
212 management committee to print, or cause to be printed or  
213 published, any notice or advertisement relating to employment,  
214 membership, classification, referral for employment, or





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215 apprenticeship or other training which indicates, ~~indicating~~ any  
216 preference, limitation, specification, or discrimination, based  
217 on a person's race, color, religion, sex, pregnancy, national  
218 origin, age, sexual orientation, gender identity, absence of  
219 handicap, or marital status.

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

224 (a) Take or fail to take any action on the basis of a  
225 person's religion, sex, pregnancy, national origin, age, sexual  
226 orientation, gender identity, handicap, or marital status in  
227 those certain instances in which religion, sex, condition of  
228 pregnancy, national origin, age, sexual orientation, gender  
229 identity, absence of a particular handicap, or marital status is  
230 a bona fide occupational qualification reasonably necessary for  
231 the performance of the particular employment to which such  
232 action or inaction is related.

233 (9) (a) This section does ~~shall~~ not apply to any religious  
234 corporation, association, educational institution, organization,  
235 or society which conditions opportunities in the area of  
236 employment or public accommodation to members of that religious  
237 corporation, association, educational institution, organization,  
238 or society or to persons who subscribe to its tenets or beliefs.

239 (b) This section does ~~shall~~ not prohibit a religious  
240 corporation, association, educational institution, organization,  
241 or society from giving preference in employment to individuals  
242 of a particular religion to perform work connected with the  
243 carrying on by such corporations, associations, educational



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244 institutions, or societies of its various activities.

245 (c) This section and s. 760.08 are subject to ss. 761.01,  
246 761.02, 761.03, 761.04, and 761.05, any other state or federal  
247 statutes protecting the free exercise of religion, and may not  
248 be interpreted to limit the free exercise of religion and  
249 assembly guaranteed by the United States Constitution and the  
250 State Constitution.

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

256 Section 8. Section 509.092, Florida Statutes, is amended to  
257 read:

258 509.092 Public lodging establishments and public food  
259 service establishments; rights as private enterprises.—

260 (1) Public lodging establishments and public food service  
261 establishments are private enterprises, and the operator has the  
262 right to refuse accommodations or service to any person who is  
263 objectionable or undesirable to the operator, but such refusal  
264 may not be based upon the person's race, creed, color, sex,  
265 pregnancy, physical disability, sexual orientation, gender  
266 identity, or national origin.

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

270 (3) This section is subject to ss. 761.01, 761.02, 761.03,  
271 761.04, and 761.05, any other state or federal statutes  
272 protecting the free exercise of religion, and may not be



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273 interpreted to limit the free exercise of religion and assembly  
274 guaranteed by the United States Constitution and the State  
275 Constitution.

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

278 760.22 Definitions.—As used in this part ~~ss. 760.20-760.37~~,  
279 the term:

280 (1) "Commission" means the Florida Commission on Human  
281 Relations.

282 (2) "Covered multifamily dwelling" means:

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

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

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

289 (4) "Dwelling" means any building or structure, or portion  
290 thereof, which is occupied as, or designed or intended for  
291 occupancy as, a residence by one or more families, and any  
292 vacant land that ~~which~~ is offered for sale or lease for the  
293 construction or location on the land of any such building or  
294 structure, or portion thereof.

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

297 (a) A parent or other person having legal custody of such  
298 individual; or

299 (b) A designee of a parent or other person having legal  
300 custody, with the written permission of such parent or other  
301 person.



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

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

305 (8)~~(7)~~ "Handicap" means:

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

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

312 (9)~~(8)~~ "Person" includes one or more individuals,  
313 corporations, partnerships, associations, labor organizations,  
314 legal representatives, mutual companies, joint-stock companies,  
315 trusts, unincorporated organizations, trustees, trustees in  
316 bankruptcy, receivers, and fiduciaries.

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

319 (11)~~(9)~~ "Substantially equivalent" means an administrative  
320 subdivision of the State of Florida meeting the requirements of  
321 24 C.F.R. part 115, s. 115.6.

322 (12)~~(10)~~ "To rent" includes to lease, to sublease, to let,  
323 and otherwise to grant for a consideration the right to occupy  
324 premises not owned by the occupant.

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

327 760.23 Discrimination in the sale or rental of housing and  
328 other prohibited practices.—

329 (1) It is unlawful to refuse to sell or rent after the  
330 making of a bona fide offer, to refuse to negotiate for the sale



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331 or rental of, or otherwise to make unavailable or deny a  
332 dwelling to any person because of race, color, national origin,  
333 sex, sexual orientation, gender identity, handicap, familial  
334 status, or religion.

335 (2) It is unlawful to discriminate against any person in  
336 the terms, conditions, or privileges of sale or rental of a  
337 dwelling, or in the provision of services or facilities in  
338 connection therewith, because of race, color, national origin,  
339 sex, sexual orientation, gender identity, handicap, familial  
340 status, or religion.

341 (3) It is unlawful to make, print, or publish, or cause to  
342 be made, printed, or published, any notice, statement, or  
343 advertisement with respect to the sale or rental of a dwelling  
344 that indicates any preference, limitation, or discrimination  
345 based on a person's race, color, national origin, sex, sexual  
346 orientation, gender identity, handicap, familial status, or  
347 religion or an intention to make any such preference,  
348 limitation, or discrimination.

349 (4) It is unlawful to represent to any person because of  
350 the person's race, color, national origin, sex, sexual  
351 orientation, gender identity, handicap, familial status, or  
352 religion that any dwelling is not available for inspection,  
353 sale, or rental when such dwelling is in fact so available.

354 (5) It is unlawful, for profit, to induce or attempt to  
355 induce any person to sell or rent any dwelling by a  
356 representation regarding the entry or prospective entry into the  
357 neighborhood of a person or persons of a particular race, color,  
358 national origin, sex, sexual orientation, gender identity,  
359 handicap, familial status, or religion.



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

362 760.24 Discrimination in the provision of brokerage  
363 services.—It is unlawful to deny any person access to, or  
364 membership or participation in, any multiple-listing service,  
365 real estate brokers' organization, or other service,  
366 organization, or facility relating to the business of selling or  
367 renting dwellings, or to discriminate against him or her in the  
368 terms or conditions of such access, membership, or  
369 participation, because ~~on account~~ of race, color, national  
370 origin, sex, sexual orientation, gender identity, handicap,  
371 familial status, or religion.

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

374 760.25 Discrimination in the financing of housing or in  
375 residential real estate transactions.—

376 (1) It is unlawful for any bank, building and loan  
377 association, insurance company, or other corporation,  
378 association, firm, or enterprise the business of which consists  
379 in whole or in part of the making of commercial real estate  
380 loans to deny a loan or other financial assistance to a person  
381 applying for the loan for the purpose of purchasing,  
382 constructing, improving, repairing, or maintaining a dwelling,  
383 or to discriminate against him or her in the fixing of the  
384 amount, interest rate, duration, or other term or condition of  
385 such loan or other financial assistance, because of the race,  
386 color, national origin, sex, sexual orientation, gender  
387 identity, handicap, familial status, or religion of such person  
388 or of any person associated with him or her in connection with



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389 such loan or other financial assistance or the purposes of such  
390 loan or other financial assistance, or because of the race,  
391 color, national origin, sex, sexual orientation, gender  
392 identity, handicap, familial status, or religion of the present  
393 or prospective owners, lessees, tenants, or occupants of the  
394 dwelling or dwellings in relation to which such loan or other  
395 financial assistance is to be made or given.

396 (2) (a) It is unlawful for any person or entity whose  
397 business includes engaging in residential real estate  
398 transactions to discriminate against any person in making  
399 available such a transaction, or in the terms or conditions of  
400 such a transaction, because of race, color, national origin,  
401 sex, sexual orientation, gender identity, handicap, familial  
402 status, or religion.

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

405 760.26 Prohibited discrimination in land use decisions and  
406 in permitting of development.—It is unlawful to discriminate in  
407 land use decisions or in the permitting of development based on  
408 a person's race, color, national origin, sex, sexual  
409 orientation, gender identity, disability, familial status,  
410 religion, or, except as otherwise provided by law, the source of  
411 financing of a development or proposed development.

412 Section 14. Paragraph (a) of subsection (5) of section  
413 760.29, Florida Statutes, is amended to read:

414 760.29 Exemptions.—

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

416 (a) Prohibits a person engaged in the business of  
417 furnishing appraisals of real property from taking into



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418 consideration factors other than race, color, national origin,  
419 sex, sexual orientation, gender identity, handicap, familial  
420 status, or religion.

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

423 760.60 Discriminatory practices of certain clubs  
424 prohibited; remedies.-

425 (1) It is unlawful for a person to discriminate against any  
426 individual because of race, color, religion, gender, national  
427 origin, handicap, age above the age of 21, sexual orientation,  
428 gender identity, or marital status in evaluating an application  
429 for membership in a club that has more than 400 members, that  
430 provides regular meal service, and that regularly receives  
431 payment for dues, fees, use of space, facilities, services,  
432 meals, or beverages directly or indirectly from nonmembers for  
433 business purposes. It is unlawful for a person, on behalf of  
434 such a club, to publish, circulate, issue, display, post, or  
435 mail any advertisement, notice, or solicitation that contains a  
436 statement to the effect that the accommodations, advantages,  
437 facilities, membership, or privileges of the club are denied to  
438 any individual because of race, color, religion, gender,  
439 national origin, handicap, age above the age of 21, sexual  
440 orientation, gender identity, or marital status. This subsection  
441 does not apply to fraternal or benevolent organizations, ethnic  
442 clubs, or religious organizations where business activity is not  
443 prevalent.

444 Section 16. Paragraph (e) of subsection (1) of section  
445 419.001, Florida Statutes, is amended to read:

446 419.001 Site selection of community residential homes.-





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447 (1) For the purposes of this section, the term:  
448 (e) "Resident" means any of the following: a frail elder as  
449 defined in s. 429.65; a person who has a handicap as defined in  
450 s. 760.22(8)(a) ~~s. 760.22(7)(a)~~; a person who has a  
451 developmental disability as defined in s. 393.063; a  
452 nondangerous person who has a mental illness as defined in s.  
453 394.455; or a child who is found to be dependent as defined in  
454 s. 39.01 or s. 984.03, or a child in need of services as defined  
455 in s. 984.03 or s. 985.03.

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

457  
458 ===== T I T L E A M E N D M E N T =====

459 And the title is amended as follows:

460 Delete everything before the enacting clause  
461 and insert:

462 A bill to be entitled

463 An act relating to prohibited discrimination; creating  
464 the "Florida Competitive Workforce Act"; amending s.  
465 760.01, F.S.; revising provisions to include sexual  
466 orientation and gender identity as impermissible  
467 grounds for discrimination; amending s. 760.02, F.S.;  
468 adding and revising definitions; amending s. 760.05,  
469 F.S.; adding sexual orientation and gender identity as  
470 impermissible grounds for discrimination; revising the  
471 Florida Commission on Human Relations' functions;  
472 amending s. 760.07, F.S.; adding sexual orientation  
473 and gender identity as impermissible grounds for  
474 discrimination; deleting a provision relating to the  
475 term "public accommodations"; amending s. 760.08,



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476 F.S.; adding sexual orientation and gender identity as  
477 impermissible grounds for discrimination; conforming  
478 terminology; amending s. 760.10, F.S.; adding sexual  
479 orientation and gender identity as impermissible  
480 grounds for discrimination; providing an exception for  
481 constitutionally protected free exercise of religion;  
482 amending s. 509.092, F.S.; adding sexual orientation  
483 and gender identity as impermissible grounds for  
484 discrimination in public lodging establishments and  
485 public food service establishments; providing an  
486 exception for constitutionally protected free exercise  
487 of religion; amending s. 760.22, F.S.; adding  
488 definitions; amending ss. 760.23, 760.24, 760.25,  
489 760.26, 760.29, and 760.60, F.S.; adding sexual  
490 orientation and gender identity as impermissible  
491 grounds for discrimination; amending s. 419.001, F.S.;  
492 conforming a cross-reference; providing an effective  
493 date.