

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-00140B-16

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1 A bill to be entitled
2 An act relating to housing discrimination; amending s.
3 760.07, F.S.; removing housing discrimination as a
4 cause of action for certain relief and damages
5 stemming from violations of the Florida Civil Rights
6 Act of 1992; amending s. 760.34, F.S.; making
7 technical changes; revising the conditions under which
8 an aggrieved person may commence a civil action in any
9 appropriate court against a specified respondent to
10 enforce specified rights; providing that the aggrieved
11 person does not need to take specified actions before
12 bringing a civil action; amending s. 760.35, F.S.;
13 authorizing, rather than requiring, a civil action to
14 commence within 2 years after an alleged
15 discriminatory housing practice; authorizing an
16 aggrieved person to commence a civil action regardless
17 of whether a specified complaint has been filed and
18 regardless of the status of any such complaint;
19 prohibiting an aggrieved person from filing a
20 specified action in certain circumstances; providing
21 an exception; prohibiting an aggrieved person from
22 commencing a specified civil action if an
23 administrative law judge has commenced a hearing on
24 the record on the allegation; providing an effective
25 date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 760.07, Florida Statutes, is amended to

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30 read:

31 760.07 Remedies for unlawful discrimination.—Any violation
32 of any Florida statute that makes ~~making~~ unlawful discrimination
33 because of race, color, religion, gender, pregnancy, national
34 origin, age, handicap, or marital status in the areas of
35 education, employment, ~~housing~~, or public accommodations gives
36 rise to a cause of action for all relief and damages described
37 in s. 760.11(5), unless greater damages are expressly provided
38 for. If the statute prohibiting unlawful discrimination provides
39 an administrative remedy, the action for equitable relief and
40 damages provided for in this section may be initiated only after
41 the plaintiff has exhausted his or her administrative remedy.
42 The term "public accommodations" does not include lodge halls or
43 other similar facilities of private organizations which are made
44 available for public use occasionally or periodically. The right
45 to trial by jury is preserved in any case in which the plaintiff
46 is seeking actual or punitive damages.

47 Section 2. Subsections (2) and (4) of section 760.34,
48 Florida Statutes, are amended to read:

49 760.34 Enforcement.—

50 (2) Any person who files a complaint under subsection (1)
51 must do so ~~be filed~~ within 1 year after the alleged
52 discriminatory housing practice occurred. The complaint must be
53 in writing and shall state the facts upon which the allegations
54 of a discriminatory housing practice are based. A complaint may
55 be reasonably and fairly amended at any time. A respondent may
56 file an answer to the complaint against him or her and, with the
57 leave of the commission, which shall be granted whenever it
58 would be reasonable and fair to do so, may amend his or her

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59 answer at any time. Both the complaint and the answer shall be
60 verified.

61 ~~(4) If, within 180 days after a complaint is filed with the~~
62 ~~commission or within 180 days after expiration of any period of~~
63 ~~reference under subsection (3), the commission has been unable~~
64 ~~to obtain voluntary compliance with ss. 760.20-760.37, The~~
65 person aggrieved may commence a civil action in any appropriate
66 court against the respondent named in the complaint or petition
67 for an administrative determination pursuant to s. 760.35 to
68 enforce the rights granted or protected by ss. 760.20-760.37.
69 The person aggrieved is not required to petition for an
70 administrative hearing or exhaust administrative remedies before
71 bringing a civil action. If, as a result of its investigation
72 under subsection (1), the commission finds there is reasonable
73 cause to believe that a discriminatory housing practice has
74 occurred, at the request of the person aggrieved, the Attorney
75 General may bring an action in the name of the state on behalf
76 of the aggrieved person to enforce the provisions of ss. 760.20-
77 760.37.

78 Section 3. Section 760.35, Florida Statutes, is amended to
79 read:

80 760.35 Civil actions and relief; administrative
81 procedures.-

82 (1) An aggrieved person may commence a civil action ~~shall~~
83 ~~be commenced~~ no later than 2 years after an alleged
84 discriminatory housing practice has occurred. However, the court
85 shall continue a civil case brought pursuant to this section or
86 s. 760.34 from time to time before bringing it to trial if the
87 court believes that the conciliation efforts of the commission

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88 or local agency are likely to result in satisfactory settlement
89 of the discriminatory housing practice complained of in the
90 complaint made to the commission or to the local agency and
91 which practice forms the basis for the action in court. Any
92 sale, encumbrance, or rental consummated prior to the issuance
93 of any court order issued under the authority of ss. 760.20-
94 760.37 and involving a bona fide purchaser, encumbrancer, or
95 tenant without actual notice of the existence of the filing of a
96 complaint or civil action under the provisions of ss. 760.20-
97 760.37 shall not be affected.

98 (2) An aggrieved person may commence a civil action under
99 this section regardless of whether a complaint has been filed
100 under s. 760.34(1) and regardless of the status of any such
101 complaint. If the commission has obtained a conciliation
102 agreement with the consent of an aggrieved person under s.
103 760.36, the aggrieved person may not file any action under this
104 section regarding the alleged discriminatory housing practice
105 that forms the basis for the complaint except for the purpose of
106 enforcing the terms of such an agreement.

107 (3) An aggrieved person may not commence a civil action
108 under this section regarding an alleged discriminatory housing
109 practice if an administrative law judge has commenced a hearing
110 on the record on the allegation.

111 (4)~~(2)~~ If the court finds that a discriminatory housing
112 practice has occurred, it shall issue an order prohibiting the
113 practice and providing affirmative relief from the effects of
114 the practice, including injunctive and other equitable relief,
115 actual and punitive damages, and reasonable attorney ~~attorney's~~
116 fees and costs.

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117 (5)~~(3)~~(a) If the commission is unable to obtain voluntary
118 compliance with ss. 760.20-760.37 or has reasonable cause to
119 believe that a discriminatory practice has occurred:

120 1. The commission may institute an administrative
121 proceeding under chapter 120; or

122 2. The person aggrieved may request administrative relief
123 under chapter 120 within 30 days after receiving notice that the
124 commission has concluded its investigation under s. 760.34.

125 (b) Administrative hearings shall be conducted pursuant to
126 ss. 120.569 and 120.57(1). The respondent must be served written
127 notice by certified mail. If the administrative law judge finds
128 that a discriminatory housing practice has occurred or is about
129 to occur, he or she shall issue a recommended order to the
130 commission prohibiting the practice and recommending affirmative
131 relief from the effects of the practice, including quantifiable
132 damages and reasonable attorney ~~attorney's~~ fees and costs. The
133 commission may adopt, reject, or modify a recommended order only
134 as provided under s. 120.57(1). Judgment for the amount of
135 damages and costs assessed pursuant to a final order by the
136 commission may be entered in any court having jurisdiction
137 thereof and may be enforced as any other judgment.

138 (c) The district courts of appeal may, upon the filing of
139 appropriate notices of appeal, review final orders of the
140 commission pursuant to s. 120.68. Costs or fees may not be
141 assessed against the commission in any appeal from a final order
142 issued by the commission under this subsection. Unless
143 specifically ordered by the court, the commencement of an appeal
144 does not suspend or stay an order of the commission.

145 (d) This subsection does not prevent any other legal or

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146 administrative action provided by law.

147 Section 4. This act shall take effect July 1, 2016.