

By Senator Latvala

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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. 760.22, F.S.; defining the  
7           terms "gender identity" and "sexual orientation";  
8           amending ss. 760.23, 760.24, 760.25, 760.26, and  
9           760.29, F.S.; prohibiting discrimination based on  
10          sexual orientation and gender identity; amending s.  
11          760.34, F.S.; removing certain conditions for an  
12          aggrieved person to commence a civil action for a  
13          discriminatory housing practice under the Fair Housing  
14          Act; providing steps that an aggrieved person is not  
15          required to take before commencing a civil action;  
16          making technical changes; amending s. 760.35, F.S.;  
17          authorizing, rather than requiring, an aggrieved  
18          person to commence a civil action; specifying  
19          circumstances under which an aggrieved person is  
20          authorized to commence, and prohibited from  
21          commencing, a civil action; amending s. 419.001, F.S.;  
22          conforming a cross-reference; providing an effective  
23          date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1. Section 760.07, Florida Statutes, is amended to  
28           read:

29           760.07 Remedies for unlawful discrimination.—Any violation  
30           of any Florida statute making unlawful discrimination because of  
31           race, color, religion, gender, pregnancy, national origin, age,  
32           handicap, or marital status in the areas of education,

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33 employment, ~~housing~~, or public accommodations gives rise to a  
34 cause of action for all relief and damages described in s.  
35 760.11(5), unless greater damages are expressly provided for. If  
36 the statute prohibiting unlawful discrimination provides an  
37 administrative remedy, the action for equitable relief and  
38 damages provided for in this section may be initiated only after  
39 the plaintiff has exhausted his or her administrative remedy.  
40 The term "public accommodations" does not include lodge halls or  
41 other similar facilities of private organizations which are made  
42 available for public use occasionally or periodically. The right  
43 to trial by jury is preserved in any case in which the plaintiff  
44 is seeking actual or punitive damages.

45 Section 2. Present subsections (7), (8), (9), and (10) of  
46 section 760.22, Florida Statutes, are redesignated as subsections  
47 (8), (9), (11), and (12), respectively, and new subsections (7)  
48 and (10) are added to that section, to read:

49 760.22 Definitions.—As used in ss. 760.20-760.37, the term:

50 (7) "Gender identity" means gender-related identity,  
51 appearance, or behavior, regardless of whether such gender-  
52 related identity, appearance, or behavior is different from that  
53 traditionally associated with the individual's physiology or  
54 assigned sex at birth, and which can be shown by the individual  
55 providing evidence, including, but not limited to:

56 (a) Medical history, care, or treatment of the gender-  
57 related identity, appearance, or behavior;

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

60 (c) Other evidence that the gender-related identity is a  
61 sincerely held part of the individual's core identity and is not

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62 being asserted for any improper purpose.

63 (10) "Sexual orientation" means an individual's  
64 heterosexuality, homosexuality, or bisexuality.

65 Section 3. Subsections (1) through (5) of section 760.23,  
66 Florida Statutes, are amended to read:

67 760.23 Discrimination in the sale or rental of housing and  
68 other prohibited practices.—

69 (1) It is unlawful to refuse to sell or rent after the  
70 making of a bona fide offer, to refuse to negotiate for the sale  
71 or rental of, or otherwise to make unavailable or deny a  
72 dwelling to any person because of race, color, national origin,  
73 sex, sexual orientation, gender identity, handicap, familial  
74 status, or religion.

75 (2) It is unlawful to discriminate against any person in  
76 the terms, conditions, or privileges of sale or rental of a  
77 dwelling, or in the provision of services or facilities in  
78 connection therewith, because of race, color, national origin,  
79 sex, sexual orientation, gender identity, handicap, familial  
80 status, or religion.

81 (3) It is unlawful to make, print, or publish, or cause to  
82 be made, printed, or published, any notice, statement, or  
83 advertisement with respect to the sale or rental of a dwelling  
84 that indicates any preference, limitation, or discrimination  
85 based on race, color, national origin, sex, sexual orientation,  
86 gender identity, handicap, familial status, or religion or an  
87 intention to make any such preference, limitation, or  
88 discrimination.

89 (4) It is unlawful to represent to any person because of  
90 race, color, national origin, sex, sexual orientation, gender

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91 identity, handicap, familial status, or religion that any  
92 dwelling is not available for inspection, sale, or rental when  
93 such dwelling is in fact so available.

94 (5) It is unlawful, for profit, to induce or attempt to  
95 induce any person to sell or rent any dwelling by a  
96 representation regarding the entry or prospective entry into the  
97 neighborhood of a person or persons of a particular race, color,  
98 national origin, sex, sexual orientation, gender identity,  
99 handicap, familial status, or religion.

100 Section 4. Section 760.24, Florida Statutes, is amended to  
101 read:

102 760.24 Discrimination in the provision of brokerage  
103 services.—It is unlawful to deny any person access to, or  
104 membership or participation in, any multiple-listing service,  
105 real estate brokers' organization, or other service,  
106 organization, or facility relating to the business of selling or  
107 renting dwellings, or to discriminate against him or her in the  
108 terms or conditions of such access, membership, or  
109 participation, on account of race, color, national origin, sex,  
110 sexual orientation, gender identity, handicap, familial status,  
111 or religion.

112 Section 5. Subsection (1) and paragraph (a) of subsection  
113 (2) of section 760.25, Florida Statutes, are amended to read:

114 760.25 Discrimination in the financing of housing or in  
115 residential real estate transactions.—

116 (1) It is unlawful for any bank, building and loan  
117 association, insurance company, or other corporation,  
118 association, firm, or enterprise the business of which consists  
119 in whole or in part of the making of commercial real estate

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120 loans to deny a loan or other financial assistance to a person  
121 applying for the loan for the purpose of purchasing,  
122 constructing, improving, repairing, or maintaining a dwelling,  
123 or to discriminate against him or her in the fixing of the  
124 amount, interest rate, duration, or other term or condition of  
125 such loan or other financial assistance, because of the race,  
126 color, national origin, sex, sexual orientation, gender  
127 identity, handicap, familial status, or religion of such person  
128 or of any person associated with him or her in connection with  
129 such loan or other financial assistance or the purposes of such  
130 loan or other financial assistance, or because of the race,  
131 color, national origin, sex, handicap, familial status, or  
132 religion of the present or prospective owners, lessees, tenants,  
133 or occupants of the dwelling or dwellings in relation to which  
134 such loan or other financial assistance is to be made or given.

135 (2) (a) It is unlawful for any person or entity whose  
136 business includes engaging in residential real estate  
137 transactions to discriminate against any person in making  
138 available such a transaction, or in the terms or conditions of  
139 such a transaction, because of race, color, national origin,  
140 sex, sexual orientation, gender identity, handicap, familial  
141 status, or religion.

142 Section 6. Section 760.26, Florida Statutes, is amended to  
143 read:

144 760.26 Prohibited discrimination in land use decisions and  
145 in permitting of development.—It is unlawful to discriminate in  
146 land use decisions or in the permitting of development based on  
147 race, color, national origin, sex, sexual orientation, gender  
148 identity, handicap ~~disability~~, familial status, religion, or,

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149 except as otherwise provided by law, the source of financing of  
150 a development or proposed development.

151 Section 7. Paragraph (a) of subsection (1) of section  
152 760.29, Florida Statutes, is republished, and paragraph (a) of  
153 subsection (5) of that section is amended, to read:

154 760.29 Exemptions.—

155 (1) (a) Nothing in ss. 760.23 and 760.25 applies to:

156 1. Any single-family house sold or rented by its owner,  
157 provided such private individual owner does not own more than  
158 three single-family houses at any one time. In the case of the  
159 sale of a single-family house by a private individual owner who  
160 does not reside in such house at the time of the sale or who was  
161 not the most recent resident of the house prior to the sale, the  
162 exemption granted by this paragraph applies only with respect to  
163 one sale within any 24-month period. In addition, the bona fide  
164 private individual owner shall not own any interest in, nor  
165 shall there be owned or reserved on his or her behalf, under any  
166 express or voluntary agreement, title to, or any right to all or  
167 a portion of the proceeds from the sale or rental of, more than  
168 three single-family houses at any one time. The sale or rental  
169 of any single-family house shall be excepted from the  
170 application of ss. 760.20-760.37 only if the house is sold or  
171 rented:

172 a. Without the use in any manner of the sales or rental  
173 facilities or the sales or rental services of any real estate  
174 licensee or such facilities or services of any person in the  
175 business of selling or renting dwellings, or of any employee or  
176 agent of any such licensee or person; and

177 b. Without the publication, posting, or mailing, after

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178 notice, of any advertisement or written notice in violation of  
179 s. 760.23(3).

180  
181 Nothing in this provision prohibits the use of attorneys, escrow  
182 agents, abstractors, title companies, and other such  
183 professional assistance as is necessary to perfect or transfer  
184 the title.

185 2. Rooms or units in dwellings containing living quarters  
186 occupied or intended to be occupied by no more than four  
187 families living independently of each other, if the owner  
188 actually maintains and occupies one of such living quarters as  
189 his or her residence.

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

191 (a) Prohibits a person engaged in the business of  
192 furnishing appraisals of real property from taking into  
193 consideration factors other than race, color, national origin,  
194 sex, sexual orientation, gender identity, handicap, familial  
195 status, or religion.

196 Section 8. Subsections (2) and (4) of section 760.34,  
197 Florida Statutes, are amended, and subsections (5) and (6) are  
198 republished, to read:

199 760.34 Enforcement.—

200 (2) Any person who files a complaint under subsection (1)  
201 must do so ~~be filed~~ within 1 year after the alleged  
202 discriminatory housing practice occurred. The complaint must be  
203 in writing and shall state the facts upon which the allegations  
204 of a discriminatory housing practice are based. A complaint may  
205 be reasonably and fairly amended at any time. A respondent may  
206 file an answer to the complaint against him or her and, with the

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207 leave of the commission, which shall be granted whenever it  
208 would be reasonable and fair to do so, may amend his or her  
209 answer at any time. Both the complaint and the answer shall be  
210 verified.

211 ~~(4) If, within 180 days after a complaint is filed with the~~  
212 ~~commission or within 180 days after expiration of any period of~~  
213 ~~reference under subsection (3), the commission has been unable~~  
214 ~~to obtain voluntary compliance with ss. 760.20-760.37, The~~  
215 ~~person~~ aggrieved person may commence a civil action in any  
216 appropriate court against the respondent named in the complaint  
217 or petition for an administrative determination pursuant to s.  
218 760.35 to enforce the rights granted or protected by ss. 760.20-  
219 760.37. The aggrieved person is not required to petition for an  
220 administrative hearing or to exhaust administrative remedies  
221 before commencing a civil action. If, as a result of its  
222 investigation under subsection (1), the commission finds there  
223 is reasonable cause to believe that a discriminatory housing  
224 practice has occurred, at the request of the person aggrieved,  
225 the Attorney General may bring an action in the name of the  
226 state on behalf of the aggrieved person to enforce the  
227 provisions of ss. 760.20-760.37.

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

230 (6) Whenever an action filed in court pursuant to this  
231 section or s. 760.35 comes to trial, the commission shall  
232 immediately terminate all efforts to obtain voluntary  
233 compliance.

234 Section 9. Section 760.35, Florida Statutes, is amended to  
235 read:



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236 760.35 Civil actions and relief; administrative  
237 procedures.—

238 (1) An aggrieved person may commence a civil action ~~shall~~  
239 ~~be commenced~~ no later than 2 years after an alleged  
240 discriminatory housing practice has occurred. However, the court  
241 shall continue a civil case brought pursuant to this section or  
242 s. 760.34 from time to time before bringing it to trial if the  
243 court believes that the conciliation efforts of the commission  
244 or local agency are likely to result in satisfactory settlement  
245 of the discriminatory housing practice complained of in the  
246 complaint made to the commission or to the local agency and  
247 which practice forms the basis for the action in court. Any  
248 sale, encumbrance, or rental consummated prior to the issuance  
249 of any court order issued under the authority of ss. 760.20-  
250 760.37 and involving a bona fide purchaser, encumbrancer, or  
251 tenant without actual notice of the existence of the filing of a  
252 complaint or civil action under the provisions of ss. 760.20-  
253 760.37 shall not be affected.

254 (2) An aggrieved person may commence a civil action under  
255 this section regardless of whether a complaint has been filed  
256 under s. 760.34(1) and regardless of the status of any such  
257 complaint. If the commission has obtained a conciliation  
258 agreement with the consent of an aggrieved person under s.  
259 760.36, the aggrieved person may not file any action under this  
260 section regarding the alleged discriminatory housing practice  
261 that forms the basis for the complaint except for the purpose of  
262 enforcing the terms of such an agreement.

263 (3) An aggrieved person may not commence a civil action  
264 under this section regarding an alleged discriminatory housing

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265 practice if an administrative law judge has commenced a hearing  
266 on the record on the allegation.

267 (4)~~(2)~~ If the court finds that a discriminatory housing  
268 practice has occurred, it shall issue an order prohibiting the  
269 practice and providing affirmative relief from the effects of  
270 the practice, including injunctive and other equitable relief,  
271 actual and punitive damages, and reasonable attorney ~~attorney's~~  
272 fees and costs.

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

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

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

281 (b) Administrative hearings shall be conducted pursuant to  
282 ss. 120.569 and 120.57(1). The respondent must be served written  
283 notice by certified mail. If the administrative law judge finds  
284 that a discriminatory housing practice has occurred or is about  
285 to occur, he or she shall issue a recommended order to the  
286 commission prohibiting the practice and recommending affirmative  
287 relief from the effects of the practice, including quantifiable  
288 damages and reasonable attorney ~~attorney's~~ fees and costs. The  
289 commission may adopt, reject, or modify a recommended order only  
290 as provided under s. 120.57(1). Judgment for the amount of  
291 damages and costs assessed pursuant to a final order by the  
292 commission may be entered in any court having jurisdiction  
293 thereof and may be enforced as any other judgment.

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294 (c) The district courts of appeal may, upon the filing of  
295 appropriate notices of appeal, review final orders of the  
296 commission pursuant to s. 120.68. Costs or fees may not be  
297 assessed against the commission in any appeal from a final order  
298 issued by the commission under this subsection. Unless  
299 specifically ordered by the court, the commencement of an appeal  
300 does not suspend or stay an order of the commission.

301 (d) This subsection does not prevent any other legal or  
302 administrative action provided by law.

303 Section 10. Paragraph (e) of subsection (1) of section  
304 419.001, Florida Statutes, is amended to read:

305 419.001 Site selection of community residential homes.—

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

307 (e) "Resident" means any of the following: a frail elder as  
308 defined in s. 429.65; a person who has a handicap as defined in  
309 s. 760.22(8)(a) ~~s. 760.22(7)(a)~~; a person who has a  
310 developmental disability as defined in s. 393.063; a  
311 nondangerous person who has a mental illness as defined in s.  
312 394.455; or a child who is found to be dependent as defined in  
313 s. 39.01 or s. 984.03, or a child in need of services as defined  
314 in s. 984.03 or s. 985.03.

315 Section 11. This act shall take effect upon becoming a law.