

By Senator Rouson

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1 A bill to be entitled
2 An act relating to the Florida Commission on Human
3 Relations; amending s. 112.31895, F.S.; increasing the
4 length of time that a person alleging a prohibited
5 personnel action under the Whistle-blower's Act has to
6 file a complaint with the commission or the Chief
7 Inspector General; revising the length of time by
8 which receipt of the complaint must be acknowledged
9 and copies thereof provided to named parties; revising
10 the commission's duties with respect to the process of
11 fact finding regarding an allegation of a prohibited
12 personnel action; revising the timeframes by which the
13 commission must terminate an investigation following
14 the receipt of the fact-finding report or the failure
15 of an agency to implement corrective action
16 recommendations; revising the length of time by which
17 a complainant may file a complaint with the Public
18 Employees Relations Commission following termination
19 of the Florida Commission on Human Relations'
20 investigation; amending s. 760.03, F.S.; revising what
21 constitutes a quorum for commission meetings and
22 panels thereof; amending s. 760.065, F.S.; revising
23 the number of persons the commission must annually
24 recommend to the Governor for inclusion in the Florida
25 Civil Rights Hall of Fame; amending s. 760.11, F.S.;
26 specifying that an aggrieved person alleging certain
27 violations of the Florida Civil Rights Act of 1992
28 must file a civil action within a certain timeframe
29 upon the commission's failure to conciliate or

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30 determine reasonable cause; amending s. 760.29, F.S.;

31 deleting provisions requiring a facility or community

32 claiming an exemption under the Fair Housing Act to

33 register with the commission; amending s. 760.31,

34 F.S.; removing a requirement for commission rules, to

35 conform to changes made by the act; amending s.

36 760.60, F.S.; removing the requirement that the

37 commission or the Attorney General investigate alleged

38 discriminatory practices of a club within a specified

39 timeframe; revising the timeframe by which a

40 complainant or the Attorney General may commence a

41 civil action in response to discriminatory practices

42 of a club; providing an effective date.

43

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

45

46 Section 1. Subsections (1) and (2), paragraphs (d) and (e)

47 of subsection (3), and subsection (4) of section 112.31895,

48 Florida Statutes, are amended to read:

49 112.31895 Investigative procedures in response to

50 prohibited personnel actions.—

51 (1) COMPLAINTS.—

52 (a) If a disclosure under s. 112.3187 includes or results

53 in alleged retaliation by an employer, the employee or former

54 employee of, or applicant for employment with, a state agency,

55 as defined in s. 216.011, which ~~that~~ is so affected may file a

56 complaint alleging a prohibited personnel action, which

57 complaint must be made by filing a written complaint with the

58 Office of the Chief Inspector General in the Executive Office of

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59 the Governor or the Florida Commission on Human Relations, no
60 later than 365 ~~60~~ days after the prohibited personnel action.

61 (b) Within 5 ~~three~~ working days after receiving a complaint
62 under this section, the office or officer receiving the
63 complaint shall acknowledge receipt of the complaint and provide
64 copies of the complaint and any other preliminary information
65 available concerning the disclosure of information under s.
66 112.3187 to each of the other parties named in paragraph (a),
67 which parties shall each acknowledge receipt of such copies to
68 the complainant.

69 (2) FACT FINDING.—The Florida Commission on Human Relations
70 shall:

71 (a) Receive any allegation of a personnel action prohibited
72 by s. 112.3187, including a proposed or potential action, and
73 conduct informal fact finding regarding any allegation under
74 this section, to the extent necessary to determine whether there
75 are reasonable grounds to believe that a prohibited personnel
76 action under s. 112.3187 has occurred, is occurring, or is to be
77 taken.

78 ~~(b) Notify the complainant, within 15 days after receiving~~
79 ~~a complaint, that the complaint has been received by the~~
80 ~~department.~~

81 (b)(e) Within 180 ~~90~~ days after receiving the complaint,
82 provide the agency head and the complainant with a fact-finding
83 report that may include recommendations to the parties or
84 proposed resolution of the complaint. The fact-finding report
85 shall be presumed admissible in any subsequent or related
86 administrative or judicial review.

87 (3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

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88 (d) If the Florida Commission on Human Relations is unable
89 to conciliate a complaint within 35 ~~60~~ days after receipt of the
90 fact-finding report, the Florida Commission on Human Relations
91 shall terminate the investigation. Upon termination of any
92 investigation, the Florida Commission on Human Relations shall
93 notify the complainant and the agency head of the termination of
94 the investigation, providing a summary of relevant facts found
95 during the investigation and the reasons for terminating the
96 investigation. A written statement under this paragraph is
97 presumed admissible as evidence in any judicial or
98 administrative proceeding but is not admissible without the
99 consent of the complainant.

100 (e)1. The Florida Commission on Human Relations may request
101 an agency or circuit court to order a stay, on such terms as the
102 court requires, of any personnel action for 45 days if the
103 Florida Commission on Human Relations determines that reasonable
104 grounds exist to believe that a prohibited personnel action has
105 occurred, is occurring, or is to be taken. The Florida
106 Commission on Human Relations may request that such stay be
107 extended for appropriate periods of time.

108 2. If, in connection with any investigation, the Florida
109 Commission on Human Relations determines that reasonable grounds
110 exist to believe that a prohibited action has occurred, is
111 occurring, or is to be taken which requires corrective action,
112 the Florida Commission on Human Relations shall report the
113 determination together with any findings or recommendations to
114 the agency head and may report that determination and those
115 findings and recommendations to the Governor and the Chief
116 Financial Officer. The Florida Commission on Human Relations may

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117 include in the report recommendations for corrective action to
118 be taken.

119 3. If, after 35 ~~20~~ days, the agency does not implement the
120 recommended action, the Florida Commission on Human Relations
121 shall terminate the investigation and notify the complainant of
122 the right to appeal under subsection (4), or may petition the
123 agency for corrective action under this subsection.

124 4. If the Florida Commission on Human Relations finds, in
125 consultation with the individual subject to the prohibited
126 action, that the agency has implemented the corrective action,
127 the commission shall file such finding with the agency head,
128 together with any written comments that the individual provides,
129 and terminate the investigation.

130 (4) RIGHT TO APPEAL.—

131 (a) Not more than 21 ~~60~~ days after receipt of a notice of
132 termination of the investigation from the Florida Commission on
133 Human Relations, the complainant may file, with the Public
134 Employees Relations Commission, a complaint against the
135 employer-agency regarding the alleged prohibited personnel
136 action. The Public Employees Relations Commission shall have
137 jurisdiction over such complaints under ss. 112.3187 and
138 447.503(4) and (5).

139 (b) Judicial review of any final order of the commission
140 shall be as provided in s. 120.68.

141 Section 2. Subsection (5) of section 760.03, Florida
142 Statutes, is amended to read:

143 760.03 Commission on Human Relations; staff.—

144 (5) A quorum is necessary for the conduct of official
145 business. Unless otherwise provided by law, a quorum consists of

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146 a majority of the commissioners who are currently appointed.
147 ~~Seven members shall constitute a quorum for the conduct of~~
148 ~~business; however,~~ The commission may establish panels of not
149 less than three commissioners ~~of its members~~ to exercise its
150 powers under the Florida Civil Rights Act of 1992, subject to
151 such procedures and limitations as the commission may provide by
152 rule. For such a panel, a quorum consists of three
153 commissioners.

154 Section 3. Paragraph (a) of subsection (3) of section
155 760.065, Florida Statutes, is amended to read:

156 760.065 Florida Civil Rights Hall of Fame.—

157 (3) (a) The commission shall annually accept nominations for
158 persons to be recommended as members of the Florida Civil Rights
159 Hall of Fame. The commission shall recommend up to 10 persons
160 from which the Governor shall select up to 3 hall-of-fame
161 members.

162 Section 4. Subsection (8) of section 760.11, Florida
163 Statutes, is amended to read:

164 760.11 Administrative and civil remedies; construction.—

165 (8) ~~If In the event that~~ the commission fails to conciliate
166 or determine whether there is reasonable cause on any complaint
167 under this section within 180 days after ~~of the~~ filing ~~of~~ the
168 complaint, an aggrieved person may proceed under subsection (4) ~~7~~
169 as if the commission determined that there was reasonable cause, 7
170 except that any civil action filed under this section must
171 commence no more than 4 years after the date that the alleged
172 violation occurred.

173 Section 5. Paragraph (e) of subsection (4) of section
174 760.29, Florida Statutes, is amended to read:

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175 760.29 Exemptions.—

176 (4)

177 ~~(c) A facility or community claiming an exemption under~~
178 ~~this subsection shall register with the commission and submit a~~
179 ~~letter to the commission stating that the facility or community~~
180 ~~complies with the requirements of subparagraph (b)1.,~~
181 ~~subparagraph (b)2., or subparagraph (b)3. The letter shall be~~
182 ~~submitted on the letterhead of the facility or community and~~
183 ~~shall be signed by the president of the facility or community.~~
184 ~~This registration and documentation shall be renewed biennially~~
185 ~~from the date of original filing. The information in the~~
186 ~~registry shall be made available to the public, and the~~
187 ~~commission shall include this information on an Internet~~
188 ~~website. The commission may establish a reasonable registration~~
189 ~~fee, not to exceed \$20, that shall be deposited into the~~
190 ~~commission's trust fund to defray the administrative costs~~
191 ~~associated with maintaining the registry. The commission may~~
192 ~~impose an administrative fine, not to exceed \$500, on a facility~~
193 ~~or community that knowingly submits false information in the~~
194 ~~documentation required by this paragraph. Such fines shall be~~
195 ~~deposited in the commission's trust fund. The registration and~~
196 ~~documentation required by this paragraph shall not substitute~~
197 ~~for proof of compliance with the requirements of this~~
198 ~~subsection. Failure to comply with the requirements of this~~
199 ~~paragraph shall not disqualify a facility or community that~~
200 ~~otherwise qualifies for the exemption provided in this~~
201 ~~subsection.~~

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203 A county or municipal ordinance regarding housing for older

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204 persons may not contravene the provisions of this subsection.

205 Section 6. Subsection (5) of section 760.31, Florida
206 Statutes, is amended to read:

207 760.31 Powers and duties of commission.—The commission
208 shall:

209 (5) Adopt rules necessary to implement ss. 760.20-760.37
210 and govern the proceedings of the commission in accordance with
211 chapter 120. Commission rules shall clarify terms used with
212 regard to handicapped accessibility, exceptions from
213 accessibility requirements based on terrain or site
214 characteristics, and requirements related to housing for older
215 persons. ~~Commission rules shall specify the fee and the forms
216 and procedures to be used for the registration required by s.
217 760.29(4)(e).~~

218 Section 7. Subsections (2) and (3) of section 760.60,
219 Florida Statutes, are amended to read:

220 760.60 Discriminatory practices of certain clubs
221 prohibited; remedies.—

222 (2) A person who has been discriminated against in
223 violation of this act may file a complaint with the Commission
224 on Human Relations or with the Attorney General's Office of
225 Civil Rights. A complaint must be in writing and must contain
226 such information and be in such form as the commission requires.
227 Upon receipt of a complaint, the commission or the Attorney
228 General shall provide a copy to the person who represents the
229 club. Within 30 days after receiving a complaint, the commission
230 or the Attorney General shall ~~investigate the alleged~~
231 ~~discrimination and~~ give notice in writing to the person who
232 filed the complaint if it intends to resolve the complaint. If

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233 the commission or the Attorney General decides to resolve the
234 complaint, it shall attempt to eliminate or correct the alleged
235 discriminatory practices of a club by informal methods of
236 conference, conciliation, and persuasion.

237 (3) If the commission or the Attorney General fails, within
238 30 days after receiving a complaint filed pursuant to subsection
239 (2), to give notice of its intent to eliminate or correct the
240 alleged discriminatory practices of a club, or if the commission
241 or the Attorney General fails to resolve the complaint within 45
242 ~~30~~ days after giving such notice, the person or the Attorney
243 General on behalf of the person filing the complaint may
244 commence a civil action in a court against the club, its
245 officers, or its members to enforce this section. If the court
246 finds that a discriminatory practice occurs at the club, the
247 court may enjoin the club, its officers, or its members from
248 engaging in such practice or may order other appropriate action.

249 Section 8. This act shall take effect July 1, 2018.