

By the Committee on Governmental Oversight and Accountability;
and Senators Rouson and Campbell

585-02615-18

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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.; revising the
4 length of time by which receipt of the complaint must
5 be acknowledged and copies thereof provided to named
6 parties; revising the commission's duties with respect
7 to the process of fact finding regarding an allegation
8 of a prohibited personnel action; revising the
9 timeframes by which the commission must terminate an
10 investigation following the receipt of the fact-
11 finding report or the failure of an agency to
12 implement corrective action recommendations; revising
13 the length of time by which a complainant may file a
14 complaint with the Public Employees Relations
15 Commission following termination of the Florida
16 Commission on Human Relations' investigation; amending
17 s. 760.03, F.S.; revising what constitutes a quorum
18 for commission meetings and panels thereof; amending
19 s. 760.065, F.S.; revising the number of persons the
20 commission must annually recommend to the Governor for
21 inclusion in the Florida Civil Rights Hall of Fame;
22 amending s. 760.11, F.S.; requiring the commission to
23 provide notice to an aggrieved person under certain
24 circumstances; providing notice requirements;
25 requiring a certain civil action brought by an
26 aggrieved person to commence within a specified
27 timeframe; amending s. 760.29, F.S.; deleting
28 provisions requiring a facility or community claiming
29 an exemption under the Fair Housing Act to register

585-02615-18

2018300c1

30 with the commission; amending s. 760.31, F.S.;

31 removing a requirement for commission rules, to

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

33 760.60, F.S.; removing the requirement that the

34 commission or the Attorney General investigate alleged

35 discriminatory practices of a club within a specified

36 timeframe; revising the timeframe by which a

37 complainant or the Attorney General may commence a

38 civil action in response to discriminatory practices

39 of a club; providing an effective date.

40

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

42

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

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

45 Florida Statutes, are amended to read:

46 112.31895 Investigative procedures in response to

47 prohibited personnel actions.—

48 (1) COMPLAINTS.—

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

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

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

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

53 complaint alleging a prohibited personnel action, which

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

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

56 the Governor or the Florida Commission on Human Relations, no

57 later than 60 days after the prohibited personnel action.

58 (b) Within 5 ~~three~~ working days after receiving a complaint

585-02615-18

2018300c1

59 under this section, the office or officer receiving the
60 complaint shall acknowledge receipt of the complaint and provide
61 copies of the complaint and any other preliminary information
62 available concerning the disclosure of information under s.
63 112.3187 to each of the other parties named in paragraph (a),
64 which parties shall each acknowledge receipt of such copies to
65 the complainant.

66 (2) FACT FINDING.—The Florida Commission on Human Relations
67 shall:

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

75 ~~(b) Notify the complainant, within 15 days after receiving~~
76 ~~a complaint, that the complaint has been received by the~~
77 ~~department.~~

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

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

85 (d) If the Florida Commission on Human Relations is unable
86 to conciliate a complaint within 35 ~~60~~ days after receipt of the
87 fact-finding report, the Florida Commission on Human Relations

585-02615-18

2018300c1

88 shall terminate the investigation. Upon termination of any
89 investigation, the Florida Commission on Human Relations shall
90 notify the complainant and the agency head of the termination of
91 the investigation, providing a summary of relevant facts found
92 during the investigation and the reasons for terminating the
93 investigation. A written statement under this paragraph is
94 presumed admissible as evidence in any judicial or
95 administrative proceeding but is not admissible without the
96 consent of the complainant.

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

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

116 3. If, after 35 ~~20~~ days, the agency does not implement the

585-02615-18

2018300c1

117 recommended action, the Florida Commission on Human Relations
118 shall terminate the investigation and notify the complainant of
119 the right to appeal under subsection (4), or may petition the
120 agency for corrective action under this subsection.

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

127 (4) RIGHT TO APPEAL.—

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

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

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

140 760.03 Commission on Human Relations; staff.—

141 (5) A quorum is necessary for the conduct of official
142 business. Unless otherwise provided by law, a quorum consists of
143 a majority of the commissioners who are currently appointed.
144 ~~Seven members shall constitute a quorum for the conduct of~~
145 ~~business; however,~~ The commission may establish panels of not

585-02615-18

2018300c1

146 less than three commissioners ~~of its members~~ to exercise its
147 powers under the Florida Civil Rights Act of 1992, subject to
148 such procedures and limitations as the commission may provide by
149 rule. For such a panel, a quorum consists of three
150 commissioners.

151 Section 3. Paragraph (a) of subsection (3) of section
152 760.065, Florida Statutes, is amended to read:

153 760.065 Florida Civil Rights Hall of Fame.—

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

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

161 760.11 Administrative and civil remedies; construction.—

162 (8) If ~~In the event that~~ the commission fails to conciliate
163 or determine whether there is reasonable cause on any complaint
164 under this section within 180 days after ~~of the filing of~~ the
165 complaint:—

166 (a) An aggrieved person may proceed under subsection (4) ~~—~~
167 as if the commission determined that there was reasonable cause.

168 (b) The commission shall promptly notify the aggrieved
169 person of the failure to conciliate or to determine whether
170 there is reasonable cause. The notice shall provide the options
171 available to the aggrieved person under subsection (4) and
172 inform the aggrieved person that a civil action is prohibited if
173 not filed within 1 year after the date the commission certifies
174 that the notice was mailed.

585-02615-18

2018300c1

175 (c) Any civil action brought by an aggrieved person under
176 this subsection must be commenced within 1 year after the date
177 the commission certifies that the notice was mailed pursuant to
178 paragraph (b).

179 Section 5. Paragraph (e) of subsection (4) of section
180 760.29, Florida Statutes, is amended to read:

181 760.29 Exemptions.—

182 (4)

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

585-02615-18

2018300c1

204 ~~subsection. Failure to comply with the requirements of this~~
205 ~~paragraph shall not disqualify a facility or community that~~
206 ~~otherwise qualifies for the exemption provided in this~~
207 ~~subsection.~~

208

209 A county or municipal ordinance regarding housing for older
210 persons may not contravene the provisions of this subsection.

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

213 760.31 Powers and duties of commission.—The commission
214 shall:

215 (5) Adopt rules necessary to implement ss. 760.20-760.37
216 and govern the proceedings of the commission in accordance with
217 chapter 120. Commission rules shall clarify terms used with
218 regard to handicapped accessibility, exceptions from
219 accessibility requirements based on terrain or site
220 characteristics, and requirements related to housing for older
221 persons. ~~Commission rules shall specify the fee and the forms~~
222 ~~and procedures to be used for the registration required by s.~~
223 ~~760.29(4)(e).~~

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

226 760.60 Discriminatory practices of certain clubs
227 prohibited; remedies.—

228 (2) A person who has been discriminated against in
229 violation of this act may file a complaint with the Commission
230 on Human Relations or with the Attorney General's Office of
231 Civil Rights. A complaint must be in writing and must contain
232 such information and be in such form as the commission requires.

585-02615-18

2018300c1

233 Upon receipt of a complaint, the commission or the Attorney
234 General shall provide a copy to the person who represents the
235 club. Within 30 days after receiving a complaint, the commission
236 or the Attorney General shall ~~investigate the alleged~~
237 ~~discrimination and~~ give notice in writing to the person who
238 filed the complaint if it intends to resolve the complaint. If
239 the commission or the Attorney General decides to resolve the
240 complaint, it shall attempt to eliminate or correct the alleged
241 discriminatory practices of a club by informal methods of
242 conference, conciliation, and persuasion.

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

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