

1 A bill to be entitled

2 An act relating to the Florida Commission on Human
3 Relations; amending s. 760.03, F.S.; providing quorum
4 requirements for the Commission on Human Relations and
5 its panels; amending s. 760.065, F.S.; revising the
6 number of persons the commission may recommend for the
7 Florida Civil Rights Hall of Fame; amending s. 760.11,
8 F.S.; providing a limitation on the time a civil
9 action may be filed after an alleged violation of the
10 Florida Civil Rights Act; amending s. 760.29, F.S.;
11 deleting a requirement that a facility or community
12 that provides housing for older persons register with
13 and submit a letter to the commission; amending s.
14 760.31, F.S.; conforming a provision; amending s.
15 760.60, F.S.; deleting the requirement for the
16 commission or Attorney General to investigate a
17 complaint of discrimination in evaluating an
18 application for club membership; revising the length
19 of time the commission or Attorney General has to
20 resolve such a complaint; amending s. 112.31895, F.S.;
21 revising the timeline relating to a complaint alleging
22 a prohibited personnel action; deleting a requirement
23 that the commission notify a complainant upon receipt
24 of the complaint; providing an effective date.
25

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

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28 Section 1. Subsection (5) of section 760.03, Florida
 29 Statutes, is amended to read:

30 760.03 Commission on Human Relations; staff.—

31 (5) A quorum is necessary for the conduct of official
 32 business. Unless otherwise provided by law, a quorum consists of
 33 a majority of the currently appointed commissioners. Seven
 34 ~~members shall constitute a quorum for the conduct of business;~~
 35 ~~however,~~ The commission may establish panels of not less than
 36 three of its members to exercise its powers under the Florida
 37 Civil Rights Act of 1992, subject to such procedures and
 38 limitations as the commission may provide by rule.
 39 Notwithstanding this subsection, three appointed members serving
 40 on panels shall constitute a quorum for the conduct of official
 41 business of the panel.

42 Section 2. Paragraph (a) of subsection (3) of section
 43 760.065, Florida Statutes, is amended to read:

44 760.065 Florida Civil Rights Hall of Fame.—

45 (3) (a) The commission shall annually accept nominations
 46 for persons to be recommended as members of the Florida Civil
 47 Rights Hall of Fame. The commission shall recommend up to 10
 48 persons from which the Governor shall select up to 3 hall-of-
 49 fame members.

50 Section 3. Subsection (8) of section 760.11, Florida

51 Statutes, is amended to read:

52 760.11 Administrative and civil remedies; construction.—

53 (8) If ~~In the event that~~ the commission fails to
54 conciliate or determine whether there is reasonable cause on any
55 complaint under this section within 180 days of the filing of
56 the complaint, an aggrieved person may proceed under subsection
57 (4), as if the commission determined that there was reasonable
58 cause, except that any civil action filed under this section
59 shall commence no later than 4 years following the date the
60 alleged discriminatory act occurred.

61 Section 4. Subsection (4) of section 760.29, Florida
62 Statutes, is amended to read:

63 760.29 Exemptions.—

64 (4) (a) Any provision of ss. 760.20-760.37 regarding
65 familial status does not apply with respect to housing for older
66 persons.

67 (b) As used in this subsection, the term "housing for
68 older persons" means housing:

69 1. Provided under any state or federal program that the
70 commission determines is specifically designed and operated to
71 assist elderly persons, as defined in the state or federal
72 program;

73 2. Intended for, and solely occupied by, persons 62 years
74 of age or older; or

75 3. Intended and operated for occupancy by persons 55 years

76 | of age or older that meets the following requirements:

77 | a. At least 80 percent of the occupied units are occupied
78 | by at least one person 55 years of age or older.

79 | b. The housing facility or community publishes and adheres
80 | to policies and procedures that demonstrate the intent required
81 | under this subparagraph. If the housing facility or community
82 | meets the requirements of sub-subparagraphs a. and c. and the
83 | recorded governing documents provide for an adult, senior, or
84 | retirement housing facility or community and the governing
85 | documents lack an amendatory procedure, prohibit amendments, or
86 | restrict amendments until a specified future date, then that
87 | housing facility or community shall be deemed housing for older
88 | persons intended and operated for occupancy by persons 55 years
89 | of age or older. If those documents further provide a
90 | prohibition against residents 16 years of age or younger, that
91 | provision shall be construed, for purposes of the Fair Housing
92 | Act, to only apply to residents 18 years of age or younger, in
93 | order to conform with federal law requirements. Governing
94 | documents which can be amended at a future date must be amended
95 | and properly recorded within 1 year after that date to reflect
96 | the requirements for consideration as housing for older persons,
97 | if that housing facility or community intends to continue as
98 | housing for older persons.

99 | c. The housing facility or community complies with rules
100 | made by the Secretary of the United States Department of Housing

101 and Urban Development pursuant to 24 C.F.R. part 100 for
102 verification of occupancy, which rules provide for verification
103 by reliable surveys and affidavits and include examples of the
104 types of policies and procedures relevant to a determination of
105 compliance with the requirements of sub-subparagraph b. Such
106 surveys and affidavits are admissible in administrative and
107 judicial proceedings for the purposes of such verification.

108 (c) Housing shall not fail to be considered housing for
109 older persons if:

110 1. A person who resides in such housing on or after
111 October 1, 1989, does not meet the age requirements of this
112 subsection, provided that any new occupant meets such age
113 requirements; or

114 2. One or more units are unoccupied, provided that any
115 unoccupied units are reserved for occupancy by persons who meet
116 the age requirements of this subsection.

117 (d) A person shall not be personally liable for monetary
118 damages for a violation of this subsection if such person
119 reasonably relied in good faith on the application of the
120 exemption under this subsection relating to housing for older
121 persons. For purposes of this paragraph, a person may show good
122 faith reliance on the application of the exemption only by
123 showing that:

124 1. The person has no actual knowledge that the facility or
125 the community is ineligible, or will become ineligible, for such

126 exemption; and

127 2. The facility or community has stated formally, in
128 writing, that the facility or community complies with the
129 requirements for such exemption.

130 ~~(c) A facility or community claiming an exemption under
131 this subsection shall register with the commission and submit a
132 letter to the commission stating that the facility or community
133 complies with the requirements of subparagraph (b)1.,
134 subparagraph (b)2., or subparagraph (b)3. The letter shall be
135 submitted on the letterhead of the facility or community and
136 shall be signed by the president of the facility or community.
137 This registration and documentation shall be renewed biennially
138 from the date of original filing. The information in the
139 registry shall be made available to the public, and the
140 commission shall include this information on an Internet
141 website. The commission may establish a reasonable registration
142 fee, not to exceed \$20, that shall be deposited into the
143 commission's trust fund to defray the administrative costs
144 associated with maintaining the registry. The commission may
145 impose an administrative fine, not to exceed \$500, on a facility
146 or community that knowingly submits false information in the
147 documentation required by this paragraph. Such fines shall be
148 deposited in the commission's trust fund. The registration and
149 documentation required by this paragraph shall not substitute
150 for proof of compliance with the requirements of this~~

151 ~~subsection. Failure to comply with the requirements of this~~
152 ~~paragraph shall not disqualify a facility or community that~~
153 ~~otherwise qualifies for the exemption provided in this~~
154 ~~subsection.~~

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

158 Section 5. Subsection (5) of section 760.31, Florida
159 Statutes, is amended to read:

160 760.31 Powers and duties of commission.—The commission
161 shall:

162 (5) Adopt rules necessary to implement ss. 760.20-760.37
163 and govern the proceedings of the commission in accordance with
164 chapter 120. Commission rules shall clarify terms used with
165 regard to handicapped accessibility, exceptions from
166 accessibility requirements based on terrain or site
167 characteristics, and requirements related to housing for older
168 persons. ~~Commission rules shall specify the fee and the forms~~
169 ~~and procedures to be used for the registration required by s.~~
170 ~~760.29(4)(c).~~

171 Section 6. Subsections (2) and (3) of section 760.60,
172 Florida Statutes, are amended to read:

173 760.60 Discriminatory practices of certain clubs
174 prohibited; remedies.—

175 (2) A person who has been discriminated against in

176 violation of this act may file a complaint with the Commission
177 on Human Relations or with the Attorney General's Office of
178 Civil Rights. A complaint must be in writing and must contain
179 such information and be in such form as the commission requires.
180 Upon receipt of a complaint, the commission or the Attorney
181 General shall provide a copy to the person who represents the
182 club. Within 30 days after receiving a complaint, the commission
183 or the Attorney General shall ~~investigate the alleged~~
184 ~~discrimination and~~ give notice in writing to the person who
185 filed the complaint if it intends to resolve the complaint. If
186 the commission or the Attorney General decides to resolve the
187 complaint, it shall attempt to eliminate or correct the alleged
188 discriminatory practices of a club by informal methods of
189 conference, conciliation, and persuasion.

190 (3) If the commission or the Attorney General fails,
191 within 30 days after receiving a complaint filed pursuant to
192 subsection (2), to give notice of its intent to eliminate or
193 correct the alleged discriminatory practices of a club, or if
194 the commission or the Attorney General fails to resolve the
195 complaint within 45 ~~30~~ days after giving such notice, the person
196 or the Attorney General on behalf of the person filing the
197 complaint may commence a civil action in a court against the
198 club, its officers, or its members to enforce this section. If
199 the court finds that a discriminatory practice occurs at the
200 club, the court may enjoin the club, its officers, or its

201 members from engaging in such practice or may order other
 202 appropriate action.

203 Section 7. Subsections (1) and (2), paragraphs (d) and (e)
 204 of subsection (3), and paragraph (a) of subsection (4) of
 205 section 112.31895, Florida Statutes, are amended to read:

206 112.31895 Investigative procedures in response to
 207 prohibited personnel actions.—

208 (1) (a) If a disclosure under s. 112.3187 includes or
 209 results in alleged retaliation by an employer, the employee or
 210 former employee of, or applicant for employment with, a state
 211 agency, as defined in s. 216.011, that is so affected may file a
 212 complaint alleging a prohibited personnel action, which
 213 complaint must be made by filing a written complaint with the
 214 Office of the Chief Inspector General in the Executive Office of
 215 the Governor or the Florida Commission on Human Relations, no
 216 later than 60 days after the prohibited personnel action.

217 (b) Within five ~~three~~ working days after receiving a
 218 complaint under this section, the office or officer receiving
 219 the complaint shall acknowledge receipt of the complaint and
 220 provide copies of the complaint and any other preliminary
 221 information available concerning the disclosure of information
 222 under s. 112.3187 to each of the other parties named in
 223 paragraph (a), which parties shall each acknowledge receipt of
 224 such copies to the complainant.

225 (2) FACT FINDING.—The Florida Commission on Human

226 Relations shall:

227 (a) Receive any allegation of a personnel action
 228 prohibited by s. 112.3187, including a proposed or potential
 229 action, and conduct informal fact finding regarding any
 230 allegation under this section, to the extent necessary to
 231 determine whether there are reasonable grounds to believe that a
 232 prohibited personnel action under s. 112.3187 has occurred, is
 233 occurring, or is to be taken.

234 ~~(b) Notify the complainant, within 15 days after receiving~~
 235 ~~a complaint, that the complaint has been received by the~~
 236 ~~department.~~

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

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

244 (d) If the Florida Commission on Human Relations is unable
 245 to conciliate a complaint within 35 ~~60~~ days after receipt of the
 246 fact-finding report, the Florida Commission on Human Relations
 247 shall terminate the investigation. Upon termination of any
 248 investigation, the Florida Commission on Human Relations shall
 249 notify the complainant and the agency head of the termination of
 250 the investigation, providing a summary of relevant facts found

251 during the investigation and the reasons for terminating the
252 investigation. A written statement under this paragraph is
253 presumed admissible as evidence in any judicial or
254 administrative proceeding but is not admissible without the
255 consent of the complainant.

256 (e)1. The Florida Commission on Human Relations may
257 request an agency or circuit court to order a stay, on such
258 terms as the court requires, of any personnel action for 45 days
259 if the Florida Commission on Human Relations determines that
260 reasonable grounds exist to believe that a prohibited personnel
261 action has occurred, is occurring, or is to be taken. The
262 Florida Commission on Human Relations may request that such stay
263 be extended for appropriate periods of time.

264 2. If, in connection with any investigation, the Florida
265 Commission on Human Relations determines that reasonable grounds
266 exist to believe that a prohibited action has occurred, is
267 occurring, or is to be taken which requires corrective action,
268 the Florida Commission on Human Relations shall report the
269 determination together with any findings or recommendations to
270 the agency head and may report that determination and those
271 findings and recommendations to the Governor and the Chief
272 Financial Officer. The Florida Commission on Human Relations may
273 include in the report recommendations for corrective action to
274 be taken.

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

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

280 4. If the Florida Commission on Human Relations finds, in
281 consultation with the individual subject to the prohibited
282 action, that the agency has implemented the corrective action,
283 the commission shall file such finding with the agency head,
284 together with any written comments that the individual provides,
285 and terminate the investigation.

286 (4) RIGHT TO APPEAL.—

287 (a) Not more than 21 ~~60~~ days after receipt of a notice of
288 termination of the investigation from the Florida Commission on
289 Human Relations, the complainant may file, with the Public
290 Employees Relations Commission, a complaint against the
291 employer-agency regarding the alleged prohibited personnel
292 action. The Public Employees Relations Commission shall have
293 jurisdiction over such complaints under ss. 112.3187 and
294 447.503(4) and (5).

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