

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.; requiring the commission to provide notice to an  
9 aggrieved person under specified circumstances;  
10 providing notice requirements; providing a limitation  
11 on the time a civil action may be filed after an  
12 alleged violation of the Florida Civil Rights Act;  
13 amending s. 760.29, F.S.; deleting a requirement that  
14 a facility or community that provides housing for  
15 older persons register with and submit a letter to the  
16 commission; amending s. 760.31, F.S.; conforming a  
17 provision; amending s. 760.60, F.S.; deleting the  
18 requirement for the commission or Attorney General to  
19 investigate a complaint of discrimination in  
20 evaluating an application for club membership;  
21 revising the length of time the commission or Attorney  
22 General has to resolve such a complaint; amending s.  
23 112.31895, F.S.; revising the timeline relating to a  
24 complaint alleging a prohibited personnel action;  
25 deleting a requirement that the commission notify a

26 | complainant upon receipt of the complaint; providing  
27 | an effective date.

28 |

29 | Be It Enacted by the Legislature of the State of Florida:

30 |

31 | Section 1. Subsection (5) of section 760.03, Florida  
32 | Statutes, is amended to read:

33 | 760.03 Commission on Human Relations; staff.—

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

45 | Section 2. Paragraph (a) of subsection (3) of section  
46 | 760.065, Florida Statutes, is amended to read:

47 | 760.065 Florida Civil Rights Hall of Fame.—

48 | (3) (a) The commission shall annually accept nominations  
49 | for persons to be recommended as members of the Florida Civil  
50 | Rights Hall of Fame. The commission shall recommend up to 10

51 persons from which the Governor shall select up to 3 hall-of-  
52 fame members.

53 Section 3. Subsection (8) of section 760.11, Florida  
54 Statutes, is amended to read:

55 760.11 Administrative and civil remedies; construction.—

56 (8) ~~If In the event that~~ the commission fails to  
57 conciliate or determine whether there is reasonable cause on any  
58 complaint under this section within 180 days of the filing of  
59 the complaint:—

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

62 (b) The commission shall promptly notify the aggrieved  
63 person of the failure to conciliate or determine whether there  
64 is reasonable cause. The notice shall provide the options  
65 available to the aggrieved person under subsection (4) and  
66 inform the aggrieved person that a civil action is prohibited if  
67 not filed within 1 year after the date the commission certifies  
68 that the notice was mailed.

69 (c) Any civil action brought by an aggrieved person under  
70 this section must be commenced within 1 year after the date the  
71 commission certifies that the notice was mailed pursuant to  
72 paragraph (b).

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

75 760.29 Exemptions.—

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

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

81 1. Provided under any state or federal program that the  
82 commission determines is specifically designed and operated to  
83 assist elderly persons, as defined in the state or federal  
84 program;

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

87 3. Intended and operated for occupancy by persons 55 years  
88 of age or older that meets the following requirements:

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

91 b. The housing facility or community publishes and adheres  
92 to policies and procedures that demonstrate the intent required  
93 under this subparagraph. If the housing facility or community  
94 meets the requirements of sub-subparagraphs a. and c. and the  
95 recorded governing documents provide for an adult, senior, or  
96 retirement housing facility or community and the governing  
97 documents lack an amendatory procedure, prohibit amendments, or  
98 restrict amendments until a specified future date, then that  
99 housing facility or community shall be deemed housing for older  
100 persons intended and operated for occupancy by persons 55 years

101 of age or older. If those documents further provide a  
102 prohibition against residents 16 years of age or younger, that  
103 provision shall be construed, for purposes of the Fair Housing  
104 Act, to only apply to residents 18 years of age or younger, in  
105 order to conform with federal law requirements. Governing  
106 documents which can be amended at a future date must be amended  
107 and properly recorded within 1 year after that date to reflect  
108 the requirements for consideration as housing for older persons,  
109 if that housing facility or community intends to continue as  
110 housing for older persons.

111 c. The housing facility or community complies with rules  
112 made by the Secretary of the United States Department of Housing  
113 and Urban Development pursuant to 24 C.F.R. part 100 for  
114 verification of occupancy, which rules provide for verification  
115 by reliable surveys and affidavits and include examples of the  
116 types of policies and procedures relevant to a determination of  
117 compliance with the requirements of sub-subparagraph b. Such  
118 surveys and affidavits are admissible in administrative and  
119 judicial proceedings for the purposes of such verification.

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

122 1. A person who resides in such housing on or after  
123 October 1, 1989, does not meet the age requirements of this  
124 subsection, provided that any new occupant meets such age  
125 requirements; or

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

129           (d) A person shall not be personally liable for monetary  
130 damages for a violation of this subsection if such person  
131 reasonably relied in good faith on the application of the  
132 exemption under this subsection relating to housing for older  
133 persons. For purposes of this paragraph, a person may show good  
134 faith reliance on the application of the exemption only by  
135 showing that:

136           1. The person has no actual knowledge that the facility or  
137 the community is ineligible, or will become ineligible, for such  
138 exemption; and

139           2. The facility or community has stated formally, in  
140 writing, that the facility or community complies with the  
141 requirements for such exemption.

142           ~~(c) A facility or community claiming an exemption under  
143 this subsection shall register with the commission and submit a  
144 letter to the commission stating that the facility or community  
145 complies with the requirements of subparagraph (b)1.,  
146 subparagraph (b)2., or subparagraph (b)3. The letter shall be  
147 submitted on the letterhead of the facility or community and  
148 shall be signed by the president of the facility or community.  
149 This registration and documentation shall be renewed biennially  
150 from the date of original filing. The information in the~~

151 ~~registry shall be made available to the public, and the~~  
152 ~~commission shall include this information on an Internet~~  
153 ~~website. The commission may establish a reasonable registration~~  
154 ~~fee, not to exceed \$20, that shall be deposited into the~~  
155 ~~commission's trust fund to defray the administrative costs~~  
156 ~~associated with maintaining the registry. The commission may~~  
157 ~~impose an administrative fine, not to exceed \$500, on a facility~~  
158 ~~or community that knowingly submits false information in the~~  
159 ~~documentation required by this paragraph. Such fines shall be~~  
160 ~~deposited in the commission's trust fund. The registration and~~  
161 ~~documentation required by this paragraph shall not substitute~~  
162 ~~for proof of compliance with the requirements of this~~  
163 ~~subsection. Failure to comply with the requirements of this~~  
164 ~~paragraph shall not disqualify a facility or community that~~  
165 ~~otherwise qualifies for the exemption provided in this~~  
166 ~~subsection.~~

167  
168 A county or municipal ordinance regarding housing for older  
169 persons may not contravene the provisions of this subsection.

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

172 760.31 Powers and duties of commission.—The commission  
173 shall:

174 (5) Adopt rules necessary to implement ss. 760.20–760.37  
175 and govern the proceedings of the commission in accordance with

176 chapter 120. Commission rules shall clarify terms used with  
177 regard to handicapped accessibility, exceptions from  
178 accessibility requirements based on terrain or site  
179 characteristics, and requirements related to housing for older  
180 persons. ~~Commission rules shall specify the fee and the forms~~  
181 ~~and procedures to be used for the registration required by s.~~  
182 ~~760.29(4)(e).~~

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

185 760.60 Discriminatory practices of certain clubs  
186 prohibited; remedies.—

187 (2) A person who has been discriminated against in  
188 violation of this act may file a complaint with the Commission  
189 on Human Relations or with the Attorney General's Office of  
190 Civil Rights. A complaint must be in writing and must contain  
191 such information and be in such form as the commission requires.  
192 Upon receipt of a complaint, the commission or the Attorney  
193 General shall provide a copy to the person who represents the  
194 club. Within 30 days after receiving a complaint, the commission  
195 or the Attorney General shall ~~investigate the alleged~~  
196 ~~discrimination and~~ give notice in writing to the person who  
197 filed the complaint if it intends to resolve the complaint. If  
198 the commission or the Attorney General decides to resolve the  
199 complaint, it shall attempt to eliminate or correct the alleged  
200 discriminatory practices of a club by informal methods of

201 conference, conciliation, and persuasion.

202 (3) If the commission or the Attorney General fails,  
 203 within 30 days after receiving a complaint filed pursuant to  
 204 subsection (2), to give notice of its intent to eliminate or  
 205 correct the alleged discriminatory practices of a club, or if  
 206 the commission or the Attorney General fails to resolve the  
 207 complaint within 45 ~~30~~ days after giving such notice, the person  
 208 or the Attorney General on behalf of the person filing the  
 209 complaint may commence a civil action in a court against the  
 210 club, its officers, or its members to enforce this section. If  
 211 the court finds that a discriminatory practice occurs at the  
 212 club, the court may enjoin the club, its officers, or its  
 213 members from engaging in such practice or may order other  
 214 appropriate action.

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

218 112.31895 Investigative procedures in response to  
 219 prohibited personnel actions.—

220 (1)(a) If a disclosure under s. 112.3187 includes or  
 221 results in alleged retaliation by an employer, the employee or  
 222 former employee of, or applicant for employment with, a state  
 223 agency, as defined in s. 216.011, that is so affected may file a  
 224 complaint alleging a prohibited personnel action, which  
 225 complaint must be made by filing a written complaint with the

226 Office of the Chief Inspector General in the Executive Office of  
 227 the Governor or the Florida Commission on Human Relations, no  
 228 later than 60 days after the prohibited personnel action.

229 (b) Within five ~~three~~ working days after receiving a  
 230 complaint under this section, the office or officer receiving  
 231 the complaint shall acknowledge receipt of the complaint and  
 232 provide copies of the complaint and any other preliminary  
 233 information available concerning the disclosure of information  
 234 under s. 112.3187 to each of the other parties named in  
 235 paragraph (a), which parties shall each acknowledge receipt of  
 236 such copies to the complainant.

237 (2) FACT FINDING.—The Florida Commission on Human  
 238 Relations shall:

239 (a) Receive any allegation of a personnel action  
 240 prohibited by s. 112.3187, including a proposed or potential  
 241 action, and conduct informal fact finding regarding any  
 242 allegation under this section, to the extent necessary to  
 243 determine whether there are reasonable grounds to believe that a  
 244 prohibited personnel action under s. 112.3187 has occurred, is  
 245 occurring, or is to be taken.

246 ~~(b) Notify the complainant, within 15 days after receiving~~  
 247 ~~a complaint, that the complaint has been received by the~~  
 248 ~~department.~~

249 (b)-(e) Within 180 ~~90~~ days after receiving the complaint,  
 250 provide the agency head and the complainant with a fact-finding

251 report that may include recommendations to the parties or  
252 proposed resolution of the complaint. The fact-finding report  
253 shall be presumed admissible in any subsequent or related  
254 administrative or judicial review.

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

256 (d) If the Florida Commission on Human Relations is unable  
257 to conciliate a complaint within 35 ~~60~~ days after receipt of the  
258 fact-finding report, the Florida Commission on Human Relations  
259 shall terminate the investigation. Upon termination of any  
260 investigation, the Florida Commission on Human Relations shall  
261 notify the complainant and the agency head of the termination of  
262 the investigation, providing a summary of relevant facts found  
263 during the investigation and the reasons for terminating the  
264 investigation. A written statement under this paragraph is  
265 presumed admissible as evidence in any judicial or  
266 administrative proceeding but is not admissible without the  
267 consent of the complainant.

268 (e)1. The Florida Commission on Human Relations may  
269 request an agency or circuit court to order a stay, on such  
270 terms as the court requires, of any personnel action for 45 days  
271 if the Florida Commission on Human Relations determines that  
272 reasonable grounds exist to believe that a prohibited personnel  
273 action has occurred, is occurring, or is to be taken. The  
274 Florida Commission on Human Relations may request that such stay  
275 be extended for appropriate periods of time.

276           2. If, in connection with any investigation, the Florida  
 277 Commission on Human Relations determines that reasonable grounds  
 278 exist to believe that a prohibited action has occurred, is  
 279 occurring, or is to be taken which requires corrective action,  
 280 the Florida Commission on Human Relations shall report the  
 281 determination together with any findings or recommendations to  
 282 the agency head and may report that determination and those  
 283 findings and recommendations to the Governor and the Chief  
 284 Financial Officer. The Florida Commission on Human Relations may  
 285 include in the report recommendations for corrective action to  
 286 be taken.

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

292           4. If the Florida Commission on Human Relations finds, in  
 293 consultation with the individual subject to the prohibited  
 294 action, that the agency has implemented the corrective action,  
 295 the commission shall file such finding with the agency head,  
 296 together with any written comments that the individual provides,  
 297 and terminate the investigation.

298           (4) RIGHT TO APPEAL.—

299           (a) Not more than 21 ~~60~~ days after receipt of a notice of  
 300 termination of the investigation from the Florida Commission on

301 Human Relations, the complainant may file, with the Public  
302 Employees Relations Commission, a complaint against the  
303 employer-agency regarding the alleged prohibited personnel  
304 action. The Public Employees Relations Commission shall have  
305 jurisdiction over such complaints under ss. 112.3187 and  
306 447.503(4) and (5).

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