

By Senator Thurston

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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. 760.34, F.S.; revising the
7 conditions under which an aggrieved person may
8 commence a civil action in any appropriate court
9 against a specified respondent to enforce specified
10 rights; providing that an aggrieved person does not
11 need to take specified actions before bringing a civil
12 action; making technical changes; amending s. 760.35,
13 F.S.; authorizing, rather than requiring, a civil
14 action to commence within 2 years after an alleged
15 discriminatory housing practice; authorizing an
16 aggrieved person to commence a civil action regardless
17 of whether a specified complaint has been filed and
18 regardless of the status of any such complaint;
19 prohibiting an aggrieved person from filing a
20 specified action in certain circumstances; providing
21 an exception; prohibiting an aggrieved person from
22 commencing a specified civil action if an
23 administrative law judge has commenced a hearing on
24 the record on the allegation; providing an effective
25 date.

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

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29 Section 1. Section 760.07, Florida Statutes, is amended to

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30 read:

31 760.07 Remedies for unlawful discrimination.—Any violation
32 of any Florida statute that makes ~~making~~ unlawful discrimination
33 because of race, color, religion, gender, pregnancy, national
34 origin, age, handicap, or marital status in the areas of
35 education, employment, ~~housing~~, or public accommodations gives
36 rise to a cause of action for all relief and damages described
37 in s. 760.11(5), unless greater damages are expressly provided
38 for. If the statute prohibiting unlawful discrimination provides
39 an administrative remedy, the action for equitable relief and
40 damages provided for in this section may be initiated only after
41 the plaintiff has exhausted his or her administrative remedy.
42 The term "public accommodations" does not include lodge halls or
43 other similar facilities of private organizations which are made
44 available for public use occasionally or periodically. The right
45 to trial by jury is preserved in any case in which the plaintiff
46 is seeking actual or punitive damages.

47 Section 2. Subsections (2) and (4) of section 760.34,
48 Florida Statutes, are amended, and subsections (5) and (6) of
49 that section are republished, to read:

50 760.34 Enforcement.—

51 (2) A person who files a complaint under subsection (1)
52 must do so ~~be filed~~ within 1 year after the alleged
53 discriminatory housing practice occurred. The complaint must be
54 in writing and shall state the facts upon which the allegations
55 of a discriminatory housing practice are based. A complaint may
56 be reasonably and fairly amended at any time. A respondent may
57 file an answer to the complaint against him or her and, with the
58 leave of the commission, which shall be granted whenever it

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59 would be reasonable and fair to do so, may amend his or her
60 answer at any time. Both the complaint and the answer must ~~shall~~
61 be verified.

62 (4) ~~If, within 180 days after a complaint is filed with the~~
63 ~~commission or within 180 days after expiration of any period of~~
64 ~~reference under subsection (3), the commission has been unable~~
65 ~~to obtain voluntary compliance with ss. 760.20-760.37, The~~
66 ~~person~~ aggrieved person may commence a civil action in any
67 appropriate court against the respondent named in the complaint
68 or petition for an administrative determination pursuant to s.
69 760.35 to enforce the rights granted or protected by ss. 760.20-
70 760.37 and is not required to petition for an administrative
71 hearing or exhaust administrative remedies before commencing
72 such action. If, as a result of its investigation under
73 subsection (1), the commission finds there is reasonable cause
74 to believe that a discriminatory housing practice has occurred,
75 at the request of the person aggrieved, the Attorney General may
76 bring an action in the name of the state on behalf of the
77 aggrieved person to enforce the provisions of ss. 760.20-760.37.

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

80 (6) Whenever an action filed in court pursuant to this
81 section or s. 760.35 comes to trial, the commission shall
82 immediately terminate all efforts to obtain voluntary
83 compliance.

84 Section 3. Section 760.35, Florida Statutes, is amended to
85 read:

86 760.35 Civil actions and relief; administrative
87 procedures.-

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88 (1) An aggrieved person may commence a civil action ~~shall~~
89 ~~be commenced~~ no later than 2 years after an alleged
90 discriminatory housing practice has occurred. However, the court
91 shall continue a civil case brought pursuant to this section or
92 s. 760.34 from time to time before bringing it to trial if the
93 court believes that the conciliation efforts of the commission
94 or local agency are likely to result in satisfactory settlement
95 of the discriminatory housing practice complained of in the
96 complaint made to the commission or to the local agency and
97 which practice forms the basis for the action in court. Any
98 sale, encumbrance, or rental consummated prior to the issuance
99 of any court order issued under the authority of ss. 760.20-
100 760.37 and involving a bona fide purchaser, encumbrancer, or
101 tenant without actual notice of the existence of the filing of a
102 complaint or civil action under the provisions of ss. 760.20-
103 760.37 is ~~shall~~ not ~~be~~ affected.

104 (2) An aggrieved person may commence a civil action under
105 this section regardless of whether a complaint has been filed
106 under s. 760.34(1) and regardless of the status of such
107 complaint. If the commission has obtained a conciliation
108 agreement with the consent of an aggrieved person under s.
109 760.36, the aggrieved person may not file any action under this
110 section regarding the alleged discriminatory housing practice
111 that forms the basis for the complaint except for the purpose of
112 enforcing the terms of such an agreement.

113 (3) An aggrieved person may not commence a civil action
114 under this section regarding an alleged discriminatory housing
115 practice if an administrative law judge has commenced a hearing
116 on the record on the allegation.

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117 (4)~~(2)~~ If the court finds that a discriminatory housing
118 practice has occurred, it shall issue an order prohibiting the
119 practice and providing affirmative relief from the effects of
120 the practice, including injunctive and other equitable relief,
121 actual and punitive damages, and reasonable attorney ~~attorney's~~
122 fees and costs.

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

126 1. The commission may institute an administrative
127 proceeding under chapter 120; or

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

131 (b) Administrative hearings shall be conducted pursuant to
132 ss. 120.569 and 120.57(1). The respondent must be served written
133 notice by certified mail. If the administrative law judge finds
134 that a discriminatory housing practice has occurred or is about
135 to occur, he or she shall issue a recommended order to the
136 commission prohibiting the practice and recommending affirmative
137 relief from the effects of the practice, including quantifiable
138 damages and reasonable attorney ~~attorney's~~ fees and costs. The
139 commission may adopt, reject, or modify a recommended order only
140 as provided under s. 120.57(1). Judgment for the amount of
141 damages and costs assessed pursuant to a final order by the
142 commission may be entered in any court having jurisdiction
143 thereof and may be enforced as any other judgment.

144 (c) The district courts of appeal may, upon the filing of
145 appropriate notices of appeal, review final orders of the

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146 commission pursuant to s. 120.68. Costs or fees may not be
147 assessed against the commission in any appeal from a final order
148 issued by the commission under this subsection. Unless
149 specifically ordered by the court, the commencement of an appeal
150 does not suspend or stay an order of the commission.

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

153 Section 4. This act shall take effect upon becoming a law.