

By Senator Rouson

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1                                   A bill to be entitled  
2       An act relating to prohibited discrimination;  
3       providing a short title; amending s. 509.092, F.S.;  
4       adding sexual orientation and gender identity as  
5       impermissible grounds for discrimination in public  
6       lodging establishments and public food service  
7       establishments; providing an exception for  
8       constitutionally protected free exercise of religion;  
9       amending s. 760.01, F.S.; revising the purposes of the  
10      Florida Civil Rights Act of 1992 to conform to changes  
11      made by the act; reordering and amending s. 760.02,  
12      F.S.; defining the terms "gender identity" and "sexual  
13      orientation"; amending s. 760.05, F.S.; revising the  
14      functions of the Florida Commission on Human Relations  
15      to conform to changes made by the act; amending s.  
16      760.07, F.S.; revising provisions regarding remedies  
17      for unlawful discrimination to include discrimination  
18      based on sexual orientation and gender identity to  
19      conform to changes made by the act; amending s.  
20      760.08, F.S.; adding sexual orientation and gender  
21      identity as impermissible grounds for discrimination  
22      in places of public accommodation; amending s. 760.10,  
23      F.S.; adding sexual orientation and gender identity as  
24      impermissible grounds for discrimination with respect  
25      to specified unlawful employment practices; providing  
26      an exception for constitutionally protected free  
27      exercise of religion; amending s. 760.22, F.S.;  
28      defining the terms "gender identity" and "sexual  
29      orientation" for purposes of the Fair Housing Act;

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30 amending ss. 760.23, 760.24, 760.25, and 760.26, F.S.;

31 adding sexual orientation and gender identity as

32 impermissible grounds for discrimination with respect

33 to the sale or rental of housing, the provision of

34 brokerage services, the financing of housing or in

35 residential real estate transactions, and land use

36 decisions and permitting of development, respectively;

37 amending s. 760.29, F.S.; revising an exemption from

38 the Fair Housing Act regarding the appraisal of real

39 property to conform to changes made by the act;

40 amending s. 760.60, F.S.; adding sexual orientation

41 and gender identity as impermissible grounds for

42 discrimination with respect to practices of certain

43 clubs; amending s. 419.001, F.S.; conforming a cross-

44 reference; providing an effective date.

45

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

47

48 Section 1. This act may be cited as the "Florida

49 Competitive Workforce Act."

50 Section 2. Section 509.092, Florida Statutes, is amended to

51 read:

52 509.092 Public lodging establishments and public food

53 service establishments; rights as private enterprises.—

54 (1) Public lodging establishments and public food service

55 establishments are private enterprises, and the operator has the

56 right to refuse accommodations or service to any person who is

57 objectionable or undesirable to the operator, but such refusal

58 may not be based upon race, creed, color, sex, pregnancy,

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59 physical disability, sexual orientation, gender identity, or  
60 national origin.

61 (2) A person aggrieved by a violation of this section or a  
62 violation of a rule adopted under this section has a right of  
63 action pursuant to s. 760.11.

64 (3) This section does not limit the free exercise of  
65 religion guaranteed by the United States Constitution and the  
66 State Constitution.

67 Section 3. Subsection (1) of section 760.01, Florida  
68 Statutes, is republished, and subsection (2) of that section is  
69 amended, to read:

70 760.01 Purposes; construction; title.—

71 (1) Sections 760.01-760.11 and 509.092 shall be cited as  
72 the "Florida Civil Rights Act of 1992."

73 (2) The general purposes of the Florida Civil Rights Act of  
74 1992 are to secure for all individuals within the state freedom  
75 from discrimination because of race, color, religion, sex,  
76 pregnancy, national origin, age, sexual orientation, gender  
77 identity, handicap, or marital status and thereby to protect  
78 their interest in personal dignity, to make available to the  
79 state their full productive capacities, to secure the state  
80 against domestic strife and unrest, to preserve the public  
81 safety, health, and general welfare, and to promote the  
82 interests, rights, and privileges of individuals within the  
83 state.

84 Section 4. Section 760.02, Florida Statutes, is reordered  
85 and amended to read:

86 760.02 Definitions.—For the purposes of ss. 760.01-760.11  
87 and 509.092, the term:

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88        (7)~~(1)~~ "Florida Civil Rights Act of 1992" means ss. 760.01-  
89 760.11 and 509.092.

90        (2) "Commission" means the Florida Commission on Human  
91 Relations created by s. 760.03.

92        (3) "Commissioner" or "member" means a member of the  
93 commission.

94        (4) "Discriminatory practice" means any practice made  
95 unlawful by the Florida Civil Rights Act of 1992.

96        (10)~~(5)~~ "National origin" includes ancestry.

97        (11)~~(6)~~ "Person" includes an individual, association,  
98 corporation, joint apprenticeship committee, joint-stock  
99 company, labor union, legal representative, mutual company,  
100 partnership, receiver, trust, trustee in bankruptcy, or  
101 unincorporated organization; any other legal or commercial  
102 entity; the state; or any governmental entity or agency.

103        (5)~~(7)~~ "Employer" means any person employing 15 or more  
104 employees for each working day in each of 20 or more calendar  
105 weeks in the current or preceding calendar year, and any agent  
106 of such a person.

107        (6)~~(8)~~ "Employment agency" means any person regularly  
108 undertaking, with or without compensation, to procure employees  
109 for an employer or to procure for employees opportunities to  
110 work for an employer, and includes an agent of such a person.

111        (8) "Gender identity" means gender-related identity,  
112 appearance, or behavior, regardless of whether such gender-  
113 related identity, appearance, or behavior is different from that  
114 traditionally associated with the person's physiology or  
115 assigned sex at birth, and which gender-related identity can be  
116 shown by the person providing evidence, including, but not

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117 limited to:

118 (a) Medical history, care, or treatment of the gender-  
119 related identity;

120 (b) Consistent and uniform assertion of the gender-related  
121 identity; or

122 (c) Other evidence that the gender-related identity is a  
123 sincerely held part of a person's core identity and is not being  
124 asserted for an improper purpose.

125 (9) "Labor organization" means any organization that ~~which~~  
126 exists for the purpose, in whole or in part, of collective  
127 bargaining or of dealing with employers concerning grievances,  
128 terms or conditions of employment, or other mutual aid or  
129 protection in connection with employment.

130 (1) ~~(10)~~ "Aggrieved person" means any person who files a  
131 complaint with the Florida Commission on Human Relations  
132 ~~Commission~~.

133 (12) ~~(11)~~ "Public accommodations" means places of public  
134 accommodation, lodgings, facilities principally engaged in  
135 selling food for consumption on the premises, gasoline stations,  
136 places of exhibition or entertainment, and other covered  
137 establishments. Each of the following establishments which  
138 serves the public is a place of public accommodation within the  
139 meaning of this section:

140 (a) Any inn, hotel, motel, or other establishment that  
141 ~~which~~ provides lodging to transient guests, other than an  
142 establishment located within a building that ~~which~~ contains not  
143 more than four rooms for rent or hire and that ~~which~~ is actually  
144 occupied by the proprietor of such establishment as his or her  
145 residence.

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146 (b) Any restaurant, cafeteria, lunchroom, lunch counter,  
147 soda fountain, or other facility principally engaged in selling  
148 food for consumption on the premises, including, but not limited  
149 to, any such facility located on the premises of any retail  
150 establishment, or any gasoline station.

151 (c) Any motion picture theater, theater, concert hall,  
152 sports arena, stadium, or other place of exhibition or  
153 entertainment.

154 (d) Any establishment that ~~which~~ is physically located  
155 within the premises of any establishment otherwise covered by  
156 this subsection, or within the premises of which is physically  
157 located any such covered establishment, and that ~~which~~ holds  
158 itself out as serving patrons of such covered establishment.

159 (13) "Sexual orientation" means an individual's  
160 heterosexuality, homosexuality, or bisexuality.

161 Section 5. Section 760.05, Florida Statutes, is amended to  
162 read:

163 760.05 Functions of the commission.—The commission shall  
164 promote and encourage fair treatment and equal opportunity for  
165 all persons regardless of race, color, religion, sex, pregnancy,  
166 national origin, age, sexual orientation, gender identity,  
167 handicap, or marital status and mutual understanding and respect  
168 among all members of society. The commission ~~all economic,~~  
169 ~~social, racial, religious, and ethnic groups;~~ and shall endeavor  
170 to eliminate discrimination against, and antagonism between,  
171 persons on the basis of race, color, religion, sex, pregnancy,  
172 national origin, age, sexual orientation, gender identity,  
173 handicap, or marital status ~~religious, racial, and ethnic groups~~  
174 ~~and their members.~~

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175 Section 6. Section 760.07, Florida Statutes, is amended to  
176 read:

177 760.07 Remedies for unlawful discrimination.—Any violation  
178 of any state law ~~Florida statute~~ making unlawful discrimination  
179 because of race, color, religion, gender, pregnancy, national  
180 origin, age, sexual orientation, gender identity, handicap, or  
181 marital status in the areas of education, employment, housing,  
182 or public accommodations gives rise to a cause of action for all  
183 relief and damages described in s. 760.11(5), unless greater  
184 damages are expressly provided for. If the statute prohibiting  
185 unlawful discrimination provides an administrative remedy, the  
186 action for equitable relief and damages provided for in this  
187 section may be initiated only after the plaintiff has exhausted  
188 his or her administrative remedy. The term "public  
189 accommodations" does not include lodge halls or other similar  
190 facilities of private organizations which are made available for  
191 public use occasionally or periodically. The right to trial by  
192 jury is preserved in any case in which the plaintiff is seeking  
193 actual or punitive damages.

194 Section 7. Section 760.08, Florida Statutes, is amended to  
195 read:

196 760.08 Discrimination in places of public accommodation.—  
197 All persons are entitled to the full and equal enjoyment of the  
198 goods, services, facilities, privileges, advantages, and  
199 accommodations of any place of public accommodation without  
200 discrimination or segregation on the ground of race, color,  
201 national origin, sex, sexual orientation, gender identity,  
202 pregnancy, handicap, familial status, or religion.

203 Section 8. Subsections (1) and (2), paragraphs (a) and (b)

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204 of subsection (3), subsections (4), (5), and (6), paragraph (a)  
205 of subsection (8), and subsection (9) of section 760.10, Florida  
206 Statutes, are amended, and subsection (10) of that section is  
207 republished, to read:

208 760.10 Unlawful employment practices.—

209 (1) It is an unlawful employment practice for an employer:

210 (a) To discharge or to fail or refuse to hire any  
211 individual, or otherwise to discriminate against any individual  
212 with respect to compensation, terms, conditions, or privileges  
213 of employment, because of such individual's race, color,  
214 religion, sex, pregnancy, national origin, age, sexual  
215 orientation, gender identity, handicap, or marital status.

216 (b) To limit, segregate, or classify employees or  
217 applicants for employment in any way that ~~which~~ would deprive or  
218 tend to deprive any individual of employment opportunities, or  
219 adversely affect any individual's status as an employee, because  
220 of such individual's race, color, religion, sex, pregnancy,  
221 national origin, age, sexual orientation, gender identity,  
222 handicap, or marital status.

223 (2) It is an unlawful employment practice for an employment  
224 agency to fail or refuse to refer for employment, or otherwise  
225 to discriminate against, any individual because of race, color,  
226 religion, sex, pregnancy, national origin, age, sexual  
227 orientation, gender identity, handicap, or marital status or to  
228 classify or refer for employment any individual on the basis of  
229 race, color, religion, sex, pregnancy, national origin, age,  
230 sexual orientation, gender identity, handicap, or marital  
231 status.

232 (3) It is an unlawful employment practice for a labor

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233 organization:

234 (a) To exclude or to expel from its membership, or  
235 otherwise to discriminate against, any individual because of  
236 race, color, religion, sex, pregnancy, national origin, age,  
237 sexual orientation, gender identity, handicap, or marital  
238 status.

239 (b) To limit, segregate, or classify its membership or  
240 applicants for membership, or to classify or fail or refuse to  
241 refer for employment any individual, in any way that would  
242 deprive or tend to deprive any individual of employment  
243 opportunities, or adversely affect any individual's status as an  
244 employee or as an applicant for employment, because of such  
245 individual's race, color, religion, sex, pregnancy, national  
246 origin, age, sexual orientation, gender identity, handicap, or  
247 marital status.

248 (4) It is an unlawful employment practice for any employer,  
249 labor organization, or joint labor-management committee  
250 controlling apprenticeship or other training or retraining,  
251 including on-the-job training programs, to discriminate against  
252 any individual because of race, color, religion, sex, pregnancy,  
253 national origin, age, sexual orientation, gender identity,  
254 handicap, or marital status in admission to, or employment in,  
255 any program established to provide apprenticeship or other  
256 training.

257 (5) Whenever, in order to engage in a profession,  
258 occupation, or trade, it is required that a person receive a  
259 license, certification, or other credential;~~;~~ become a member or  
260 an associate of any club, association, or other organization;~~;~~  
261 or pass any examination, it is an unlawful employment practice

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262 for any person to discriminate against any other person seeking  
263 such license, certification, or other credential;~~;~~ seeking to  
264 become a member or associate of such club, association, or other  
265 organization;~~;~~ or seeking to take or pass such examination,  
266 because of such other person's race, color, religion, sex,  
267 pregnancy, national origin, age, sexual orientation, gender  
268 identity, handicap, or marital status.

269 (6) It is an unlawful employment practice for an employer,  
270 a labor organization, an employment agency, or a joint labor-  
271 management committee to print, or cause to be printed or  
272 published, any notice or advertisement relating to employment,  
273 membership, classification, referral for employment, or  
274 apprenticeship or other training which indicates,~~indicating~~ any  
275 preference, limitation, specification, or discrimination~~,~~ based  
276 on race, color, religion, sex, pregnancy, national origin, age,  
277 sexual orientation, gender identity, absence of handicap, or  
278 marital status.

279 (8) Notwithstanding any other provision of this section, it  
280 is not an unlawful employment practice under ss. 760.01-760.10  
281 for an employer, employment agency, labor organization, or joint  
282 labor-management committee to:

283 (a) Take or fail to take any action on the basis of  
284 religion, sex, pregnancy, national origin, age, sexual  
285 orientation, gender identity, handicap, or marital status in  
286 those certain instances in which religion, sex, condition of  
287 pregnancy, national origin, age, sexual orientation, gender  
288 identity, absence of a particular handicap, or marital status is  
289 a bona fide occupational qualification reasonably necessary for  
290 the performance of the particular employment to which such

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291 action or inaction is related.

292 (9) (a) This section does ~~shall~~ not apply to any religious  
293 corporation, association, educational institution, or society  
294 that ~~which~~ conditions opportunities in the area of employment or  
295 public accommodation to members of that religious corporation,  
296 association, educational institution, or society or to persons  
297 who subscribe to its tenets or beliefs.

298 (b) This section does ~~shall~~ not prohibit a religious  
299 corporation, association, educational institution, or society  
300 from giving preference in employment to individuals of a  
301 particular religion to perform work connected with the carrying  
302 on by such corporations, associations, educational institutions,  
303 or societies of its various activities.

304 (c) This section and s. 760.08 do not limit the free  
305 exercise of religion guaranteed by the United States  
306 Constitution and the State Constitution.

307 (10) Each employer, employment agency, and labor  
308 organization shall post and keep posted in conspicuous places  
309 upon its premises a notice provided by the commission setting  
310 forth such information as the commission deems appropriate to  
311 effectuate the purposes of ss. 760.01-760.10.

312 Section 9. Section 760.22, Florida Statutes, is amended to  
313 read:

314 760.22 Definitions.—As used in ss. 760.20-760.37, the term:

315 (1) "Commission" means the Florida Commission on Human  
316 Relations.

317 (2) "Covered multifamily dwelling" means:

318 (a) A building that ~~which~~ consists of four or more units  
319 and has an elevator; or

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320 (b) The ground floor units of a building that ~~which~~  
321 consists of four or more units and does not have an elevator.

322 (3) "Discriminatory housing practice" means an act that is  
323 unlawful under the terms of ss. 760.20-760.37.

324 (4) "Dwelling" means any building or structure, or portion  
325 thereof, which is occupied as, or designed or intended for  
326 occupancy as, a residence by one or more families, and any  
327 vacant land that ~~which~~ is offered for sale or lease for the  
328 construction or location on the land of any such building or  
329 structure, or portion thereof.

330 (5) "Familial status" is established when an individual who  
331 has not attained the age of 18 years is domiciled with:

332 (a) A parent or other person having legal custody of such  
333 individual; or

334 (b) A designee of a parent or other person having legal  
335 custody, with the written permission of such parent or other  
336 person.

337 (6) "Family" includes a single individual.

338 (7) "Gender identity" has the same meaning as provided in  
339 s. 760.02.

340 (8)~~(7)~~ "Handicap" means:

341 (a) A ~~person has a~~ physical or mental impairment that ~~which~~  
342 substantially limits one or more major life activities of a  
343 person who has, ~~or he or she~~ has a record of having, or is  
344 regarded as having that, ~~such~~ physical or mental impairment; or

345 (b) A ~~person has a~~ developmental disability as defined in  
346 s. 393.063.

347 (9)~~(8)~~ "Person" includes one or more individuals,  
348 corporations, partnerships, associations, labor organizations,

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349 legal representatives, mutual companies, joint-stock companies,  
350 trusts, unincorporated organizations, trustees, trustees in  
351 bankruptcy, receivers, and fiduciaries.

352 (10) "Sexual orientation" has the same meaning as provided  
353 in s. 760.02.

354 (11)~~(9)~~ "Substantially equivalent" means an administrative  
355 subdivision of the State of Florida meeting the requirements of  
356 24 C.F.R. part 115, s. 115.6.

357 (12)~~(10)~~ "To rent" includes to lease, to sublease, to let,  
358 and otherwise to grant for a consideration the right to occupy  
359 premises not owned by the occupant.

360 Section 10. Subsections (1) through (5) of section 760.23,  
361 Florida Statutes, are amended to read:

362 760.23 Discrimination in the sale or rental of housing and  
363 other prohibited practices.—

364 (1) It is unlawful to refuse to sell or rent after the  
365 making of a bona fide offer, to refuse to negotiate for the sale  
366 or rental of, or otherwise to make unavailable or deny a  
367 dwelling to any person because of race, color, national origin,  
368 sex, sexual orientation, gender identity, handicap, familial  
369 status, or religion.

370 (2) It is unlawful to discriminate against any person in  
371 the terms, conditions, or privileges of sale or rental of a  
372 dwelling, or in the provision of services or facilities in  
373 connection therewith, because of race, color, national origin,  
374 sex, sexual orientation, gender identity, handicap, familial  
375 status, or religion.

376 (3) It is unlawful to make, print, or publish, or cause to  
377 be made, printed, or published, any notice, statement, or

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378 advertisement with respect to the sale or rental of a dwelling  
379 that indicates any preference, limitation, or discrimination  
380 based on race, color, national origin, sex, sexual orientation,  
381 gender identity, handicap, familial status, or religion or an  
382 intention to make any such preference, limitation, or  
383 discrimination.

384 (4) It is unlawful to represent to any person because of  
385 race, color, national origin, sex, sexual orientation, gender  
386 identity, handicap, familial status, or religion that any  
387 dwelling is not available for inspection, sale, or rental when  
388 such dwelling is in fact so available.

389 (5) It is unlawful, for profit, to induce or attempt to  
390 induce any person to sell or rent any dwelling by a  
391 representation regarding the entry or prospective entry into the  
392 neighborhood of a person or persons of a particular race, color,  
393 national origin, sex, sexual orientation, gender identity,  
394 handicap, familial status, or religion.

395 Section 11. Section 760.24, Florida Statutes, is amended to  
396 read:

397 760.24 Discrimination in the provision of brokerage  
398 services.—It is unlawful to deny any person access to, or  
399 membership or participation in, any multiple-listing service,  
400 real estate brokers' organization, or other service,  
401 organization, or facility relating to the business of selling or  
402 renting dwellings, or to discriminate against him or her in the  
403 terms or conditions of such access, membership, or  
404 participation, because ~~on account~~ of race, color, national  
405 origin, sex, sexual orientation, gender identity, handicap,  
406 familial status, or religion.

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407 Section 12. Subsection (1) and paragraph (a) of subsection  
408 (2) of section 760.25, Florida Statutes, are amended to read:

409 760.25 Discrimination in the financing of housing or in  
410 residential real estate transactions.-

411 (1) It is unlawful for any bank, building and loan  
412 association, insurance company, or other corporation,  
413 association, firm, or enterprise the business of which consists  
414 in whole or in part of the making of commercial real estate  
415 loans to deny a loan or other financial assistance to a person  
416 applying for the loan for the purpose of purchasing,  
417 constructing, improving, repairing, or maintaining a dwelling,  
418 or to discriminate against him or her in the fixing of the  
419 amount, interest rate, duration, or other term or condition of  
420 such loan or other financial assistance, because of the race,  
421 color, national origin, sex, sexual orientation, gender  
422 identity, handicap, familial status, or religion of such person  
423 or of any person associated with him or her in connection with  
424 such loan or other financial assistance or the purposes of such  
425 loan or other financial assistance, or because of the race,  
426 color, national origin, sex, sexual orientation, gender  
427 identity, handicap, familial status, or religion of the present  
428 or prospective owners, lessees, tenants, or occupants of the  
429 dwelling or dwellings in relation to which such loan or other  
430 financial assistance is to be made or given.

431 (2) (a) It is unlawful for any person or entity whose  
432 business includes engaging in residential real estate  
433 transactions to discriminate against any person in making  
434 available such a transaction, or in the terms or conditions of  
435 such a transaction, because of race, color, national origin,

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436 sex, sexual orientation, gender identity, handicap, familial  
437 status, or religion.

438 Section 13. Section 760.26, Florida Statutes, is amended to  
439 read:

440 760.26 Prohibited discrimination in land use decisions and  
441 in permitting of development.—It is unlawful to discriminate in  
442 land use decisions or in the permitting of development based on  
443 race, color, national origin, sex, sexual orientation, gender  
444 identity, disability, familial status, religion, or, except as  
445 otherwise provided by law, the source of financing of a  
446 development or proposed development.

447 Section 14. Paragraph (a) of subsection (5) of section  
448 760.29, Florida Statutes, is amended to read:

449 760.29 Exemptions.—

450 (5) Nothing in ss. 760.20-760.37:

451 (a) Prohibits a person engaged in the business of  
452 furnishing appraisals of real property from taking into  
453 consideration factors other than race, color, national origin,  
454 sex, sexual orientation, gender identity, handicap, familial  
455 status, or religion.

456 Section 15. Subsection (1) of section 760.60, Florida  
457 Statutes, is amended to read:

458 760.60 Discriminatory practices of certain clubs  
459 prohibited; remedies.—

460 (1) It is unlawful for a person to discriminate against any  
461 individual because of race, color, religion, gender, national  
462 origin, handicap, age above the age of 21, sexual orientation,  
463 gender identity, or marital status in evaluating an application  
464 for membership in a club that has more than 400 members, that

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465 provides regular meal service, and that regularly receives  
466 payment for dues, fees, use of space, facilities, services,  
467 meals, or beverages directly or indirectly from nonmembers for  
468 business purposes. It is unlawful for a person, on behalf of  
469 such a club, to publish, circulate, issue, display, post, or  
470 mail any advertisement, notice, or solicitation that contains a  
471 statement to the effect that the accommodations, advantages,  
472 facilities, membership, or privileges of the club are denied to  
473 any individual because of race, color, religion, gender,  
474 national origin, handicap, age above the age of 21, sexual  
475 orientation, gender identity, or marital status. This subsection  
476 does not apply to fraternal or benevolent organizations, ethnic  
477 clubs, or religious organizations where business activity is not  
478 prevalent.

479 Section 16. Paragraph (e) of subsection (1) of section  
480 419.001, Florida Statutes, is amended to read:

481 419.001 Site selection of community residential homes.—

482 (1) For the purposes of this section, the term:

483 (e) "Resident" means any of the following: a frail elder as  
484 defined in s. 429.65; a person who has a handicap as defined in  
485 s. 760.22(8)(a) ~~s. 760.22(7)(a)~~; a person who has a  
486 developmental disability as defined in s. 393.063; a  
487 nondangerous person who has a mental illness as defined in s.  
488 394.455; or a child who is found to be dependent as defined in  
489 s. 39.01 or s. 984.03, or a child in need of services as defined  
490 in s. 984.03 or s. 985.03.

491 Section 17. This act shall take effect July 1, 2019.