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LEGISLATIVE ACTION

Senate

.

House

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Floor: 1/AD/2R

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02/26/2020 04:52 PM

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Senator Diaz moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 760.27, Florida Statutes, is created to
read:

760.27 Prohibited discrimination in housing provided to
persons with a disability or disability-related need for an
emotional support animal.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Emotional support animal" means an animal that does



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12 not require training to do work, perform tasks, provide
13 assistance, or provide therapeutic emotional support by virtue
14 of its presence which alleviates one or more identified symptoms
15 or effects of a person's disability.

16 (b) "Housing provider" means any person or entity engaging
17 in conduct covered by the federal Fair Housing Act or s. 504 of
18 the Rehabilitation Act of 1973, including the owner or lessor of
19 a dwelling.

20 (2) REASONABLE ACCOMMODATION REQUESTS.—To the extent
21 required by federal law, rule, or regulation, it is unlawful to
22 discriminate in the provision of housing to a person with a
23 disability or disability-related need for, and who has or at any
24 time obtains, an emotional support animal. A person with a
25 disability or a disability-related need must, upon the person's
26 request and approval by a housing provider, be allowed to keep
27 such animal in his or her dwelling as a reasonable accommodation
28 in housing, and such person may not be required to pay extra
29 compensation for such animal. Unless otherwise prohibited by
30 federal law, rule, or regulation, a housing provider may:

31 (a) Deny a reasonable accommodation request for an
32 emotional support animal if such animal poses a direct threat to
33 the safety or health of others or poses a direct threat of
34 physical damage to the property of others, which threat cannot
35 be reduced or eliminated by another reasonable accommodation.

36 (b) If a person's disability is not readily apparent,
37 request reliable information that reasonably supports that the
38 person has a disability. Supporting information may include:

39 1. A determination of disability from any federal, state,
40 or local government agency.



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41 2. Receipt of disability benefits or services from any
42 federal, state, or local government agency.

43 3. Proof of eligibility for housing assistance or a housing
44 voucher received because of a disability.

45 4. Information from a health care practitioner, as defined
46 in s. 456.001; a telehealth provider, as defined in s. 456.47;
47 or any other similarly licensed or certified practitioner or
48 provider in good standing with his or her profession's
49 regulatory body in another state but only if such out-of-state
50 practitioner has provided in-person care or services to the
51 tenant on at least one occasion. Such information is reliable if
52 the practitioner or provider has personal knowledge of the
53 person's disability and is acting within the scope of his or her
54 practice to provide the supporting information.

55 5. Information from any other source that the housing
56 provider reasonably determines to be reliable in accordance with
57 the federal Fair Housing Act and s. 504 of the Rehabilitation
58 Act of 1973.

59 (c) If a person's disability-related need for an emotional
60 support animal is not readily apparent, request reliable
61 information that reasonably supports the person's need for the
62 particular emotional support animal being requested. Supporting
63 information may include:

64 1. Information identifying the particular assistance or
65 therapeutic emotional support provided by the specific animal
66 from a health care practitioner, as defined in s. 456.001; a
67 telehealth provider, as defined in s. 456.47; or any other
68 similarly licensed or certified practitioner or provider in good
69 standing with his or her profession's regulatory body in another



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70 state. Such information is reliable if the practitioner or
71 provider has personal knowledge of the person's disability and
72 is acting within the scope of his or her practice to provide the
73 supporting information.

74 2. Information from any other source that the housing
75 provider reasonably determines to be reliable in accordance with
76 the federal Fair Housing Act and s. 504 of the Rehabilitation
77 Act of 1973.

78 (d) If a person requests to keep more than one emotional
79 support animal, request information regarding the specific need
80 for each animal.

81 (e) Require proof of compliance with state and local
82 requirements for licensing and vaccinating each emotional
83 support animal.

84 (3) REQUEST LIMITATIONS.—

85 (a) Notwithstanding the authority to request information
86 under subsection (2), a housing provider may not request
87 information that discloses the diagnosis or severity of a
88 tenant's disability or any medical records relating to the
89 disability. However, a tenant may disclose such information or
90 medical records to the housing provider at his or her
91 discretion.

92 (b) A housing provider may develop and make available to
93 tenants a routine method for receiving and processing reasonable
94 accommodation requests for emotional support animals; however, a
95 housing provider may not require the use of a specific form or
96 notarized statement, or deny a request solely because a tenant
97 did not follow the housing provider's routine method.

98 (c) An emotional support animal registration of any kind,



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99 including, but not limited to, an identification card, patch,
100 certificate, or similar registration obtained from the Internet
101 is not, by itself, sufficient information to reliably establish
102 that a person has a disability or disability-related need for an
103 emotional support animal.

104 (4) LIABILITY.—A person with a disability or disability-
105 related need is liable for any damage done to the premises or to
106 another person on the premises by his or her emotional support
107 animal.

108 (5) APPLICABILITY.—This section does not apply to a service
109 animal as defined in s. 413.08.

110 Section 2. Paragraph (b) of subsection (6) of section
111 413.08, Florida Statutes, is amended to read:

112 413.08 Rights and responsibilities of an individual with a
113 disability; use of a service animal; prohibited discrimination
114 in public employment, public accommodations, and housing
115 accommodations; penalties.—

116 (6) An individual with a disability is entitled to rent,
117 lease, or purchase, as other members of the general public, any
118 housing accommodations offered for rent, lease, or other
119 compensation in this state, subject to the conditions and
120 limitations established by law and applicable alike to all
121 persons.

122 (b) An individual with a disability who has a service
123 animal or who obtains a service animal is entitled to full and
124 equal access to all housing accommodations provided for in this
125 section, and such individual ~~a person~~ may not be required to pay
126 extra compensation for such animal. However, such individual ~~a~~
127 ~~person~~ is liable for any damage done to the premises or to



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128 another individual person on the premises by the animal. A
129 housing accommodation may request proof of compliance with
130 vaccination requirements. This paragraph does not apply to an
131 emotional support animal as defined in s. 760.27.

132 Section 3. Paragraph (e) of subsection (1) of section
133 419.001, Florida Statutes, is amended to read:

134 419.001 Site selection of community residential homes.—

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

136 (e) "Resident" means any of the following: a frail elder as
137 defined in s. 429.65; a person who has a disability handicap as
138 defined in s. 760.22(3)(a) ~~s. 760.22(7)(a)~~; a person who has a
139 developmental disability as defined in s. 393.063; a
140 nondangerous person who has a mental illness as defined in s.
141 394.455; or a child who is found to be dependent as defined in
142 s. 39.01 or s. 984.03, or a child in need of services as defined
143 in s. 984.03 or s. 985.03.

144 Section 4. Paragraph (pp) is added to subsection (1) of
145 section 456.072, Florida Statutes, to read:

146 456.072 Grounds for discipline; penalties; enforcement.—

147 (1) The following acts shall constitute grounds for which
148 the disciplinary actions specified in subsection (2) may be
149 taken:

150 (pp) Providing information, including written
151 documentation, indicating that a patient has a disability or
152 supporting a patient's need for an emotional support animal
153 under s. 760.27 without personal knowledge of the patient's
154 disability or disability-related need for the specific emotional
155 support animal.

156 Section 5. Present subsections (3) through (6) of section



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157 760.22, Florida Statutes, are renumbered as subsections (4)
158 through (7), respectively, and present subsection (7) of that
159 section is amended, to read:

160 760.22 Definitions.—As used in ss. 760.20–760.37, the term:

161 ~~(3)(7)~~ “Disability” ~~“Handicap”~~ means:

162 (a) A person has a physical or mental impairment which
163 substantially limits one or more major life activities, or he or
164 she has a record of having, or is regarded as having, such
165 physical or mental impairment; or

166 (b) A person has a developmental disability as defined in
167 s. 393.063.

168 Section 6. Section 760.23, Florida Statutes, is amended to
169 read:

170 760.23 Discrimination in the sale or rental of housing and
171 other prohibited practices.—

172 (1) It is unlawful to refuse to sell or rent after the
173 making of a bona fide offer, to refuse to negotiate for the sale
174 or rental of, or otherwise to make unavailable or deny a
175 dwelling to any person because of race, color, national origin,
176 sex, disability ~~handicap~~, familial status, or religion.

177 (2) It is unlawful to discriminate against any person in
178 the terms, conditions, or privileges of sale or rental of a
179 dwelling, or in the provision of services or facilities in
180 connection therewith, because of race, color, national origin,
181 sex, disability ~~handicap~~, familial status, or religion.

182 (3) It is unlawful to make, print, or publish, or cause to
183 be made, printed, or published, any notice, statement, or
184 advertisement with respect to the sale or rental of a dwelling
185 that indicates any preference, limitation, or discrimination



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186 based on race, color, national origin, sex, disability ~~handicap~~,
187 familial status, or religion or an intention to make any such
188 preference, limitation, or discrimination.

189 (4) It is unlawful to represent to any person because of
190 race, color, national origin, sex, disability ~~handicap~~, familial
191 status, or religion that any dwelling is not available for
192 inspection, sale, or rental when such dwelling is in fact so
193 available.

194 (5) It is unlawful, for profit, to induce or attempt to
195 induce any person to sell or rent any dwelling by a
196 representation regarding the entry or prospective entry into the
197 neighborhood of a person or persons of a particular race, color,
198 national origin, sex, disability ~~handicap~~, familial status, or
199 religion.

200 (6) The protections afforded under ss. 760.20-760.37
201 against discrimination on the basis of familial status apply to
202 any person who is pregnant or is in the process of securing
203 legal custody of any individual who has not attained the age of
204 18 years.

205 (7) It is unlawful to discriminate in the sale or rental
206 of, or to otherwise make unavailable or deny, a dwelling to any
207 buyer or renter because of a disability ~~handicap~~ of:

208 (a) That buyer or renter;

209 (b) A person residing in or intending to reside in that
210 dwelling after it is sold, rented, or made available; or

211 (c) Any person associated with the buyer or renter.

212 (8) It is unlawful to discriminate against any person in
213 the terms, conditions, or privileges of sale or rental of a
214 dwelling, or in the provision of services or facilities in



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215 connection with such dwelling, because of a disability ~~handicap~~
216 of:

217 (a) That buyer or renter;

218 (b) A person residing in or intending to reside in that
219 dwelling after it is sold, rented, or made available; or

220 (c) Any person associated with the buyer or renter.

221 (9) For purposes of subsections (7) and (8), discrimination
222 includes:

223 (a) A refusal to permit, at the expense of the ~~handicapped~~
224 person with a disability, reasonable modifications of existing
225 premises occupied or to be occupied by such person if such
226 modifications may be necessary to afford such person full
227 enjoyment of the premises; or

228 (b) A refusal to make reasonable accommodations in rules,
229 policies, practices, or services, when such accommodations may
230 be necessary to afford such person equal opportunity to use and
231 enjoy a dwelling.

232 (10) Covered multifamily dwellings as defined herein which
233 are intended for first occupancy after March 13, 1991, shall be
234 designed and constructed to have at least one building entrance
235 on an accessible route unless it is impractical to do so because
236 of the terrain or unusual characteristics of the site as
237 determined by commission rule. Such buildings shall also be
238 designed and constructed in such a manner that:

239 (a) The public use and common use portions of such
240 dwellings are readily accessible to and usable by ~~handicapped~~
241 persons with disabilities.

242 (b) All doors designed to allow passage into and within all
243 premises within such dwellings are sufficiently wide to allow



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244 passage by a person in a wheelchair.

245 (c) All premises within such dwellings contain the
246 following features of adaptive design:

247 1. An accessible route into and through the dwelling.

248 2. Light switches, electrical outlets, thermostats, and
249 other environmental controls in accessible locations.

250 3. Reinforcements in bathroom walls to allow later
251 installation of grab bars.

252 4. Usable kitchens and bathrooms such that a person in a
253 wheelchair can maneuver about the space.

254 (d) Compliance with the appropriate requirements of the
255 American National Standards Institute for buildings and
256 facilities providing accessibility and usability for persons
257 with physical disabilities ~~physically handicapped people~~,
258 commonly cited as ANSI A117.1-1986, suffices to satisfy the
259 requirements of paragraph (c).

260
261 State agencies with building construction regulation
262 responsibility or local governments, as appropriate, shall
263 review the plans and specifications for the construction of
264 covered multifamily dwellings to determine consistency with the
265 requirements of this subsection.

266 Section 7. Section 760.24, Florida Statutes, is amended to
267 read:

268 760.24 Discrimination in the provision of brokerage
269 services.—It is unlawful to deny any person access to, or
270 membership or participation in, any multiple-listing service,
271 real estate brokers' organization, or other service,
272 organization, or facility relating to the business of selling or



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273 renting dwellings, or to discriminate against him or her in the
274 terms or conditions of such access, membership, or
275 participation, on account of race, color, national origin, sex,
276 disability ~~handicap~~, familial status, or religion.

277 Section 8. Subsection (1) and paragraph (a) of subsection
278 (2) of section 760.25, Florida Statutes, are amended to read:

279 760.25 Discrimination in the financing of housing or in
280 residential real estate transactions.—

281 (1) It is unlawful for any bank, building and loan
282 association, insurance company, or other corporation,
283 association, firm, or enterprise the business of which consists
284 in whole or in part of the making of commercial real estate
285 loans to deny a loan or other financial assistance to a person
286 applying for the loan for the purpose of purchasing,
287 constructing, improving, repairing, or maintaining a dwelling,
288 or to discriminate against him or her in the fixing of the
289 amount, interest rate, duration, or other term or condition of
290 such loan or other financial assistance, because of the race,
291 color, national origin, sex, disability ~~handicap~~, familial
292 status, or religion of such person or of any person associated
293 with him or her in connection with such loan or other financial
294 assistance or the purposes of such loan or other financial
295 assistance, or because of the race, color, national origin, sex,
296 disability ~~handicap~~, familial status, or religion of the present
297 or prospective owners, lessees, tenants, or occupants of the
298 dwelling or dwellings in relation to which such loan or other
299 financial assistance is to be made or given.

300 (2) (a) It is unlawful for any person or entity whose
301 business includes engaging in residential real estate



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302 transactions to discriminate against any person in making
303 available such a transaction, or in the terms or conditions of
304 such a transaction, because of race, color, national origin,
305 sex, disability ~~handicap~~, familial status, or religion.

306 Section 9. Paragraph (a) of subsection (1) and paragraph
307 (a) of subsection (5) of section 760.29, Florida Statutes, are
308 amended to read:

309 760.29 Exemptions.—

310 (1) (a) Nothing in ss. 760.23, ~~and~~ 760.25, and 760.27
311 applies to:

312 1. Any single-family house sold or rented by its owner,
313 provided such private individual owner does not own more than
314 three single-family houses at any one time. In the case of the
315 sale of a single-family house by a private individual owner who
316 does not reside in such house at the time of the sale or who was
317 not the most recent resident of the house prior to the sale, the
318 exemption granted by this paragraph applies only with respect to
319 one sale within any 24-month period. In addition, the bona fide
320 private individual owner shall not own any interest in, nor
321 shall there be owned or reserved on his or her behalf, under any
322 express or voluntary agreement, title to, or any right to all or
323 a portion of the proceeds from the sale or rental of, more than
324 three single-family houses at any one time. The sale or rental
325 of any single-family house shall be excepted from the
326 application of ss. 760.20-760.37 only if the house is sold or
327 rented:

328 a. Without the use in any manner of the sales or rental
329 facilities or the sales or rental services of any real estate
330 licensee or such facilities or services of any person in the



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331 business of selling or renting dwellings, or of any employee or
332 agent of any such licensee or person; and

333 b. Without the publication, posting, or mailing, after
334 notice, of any advertisement or written notice in violation of
335 s. 760.23(3).

336
337 Nothing in this provision prohibits the use of attorneys, escrow
338 agents, abstractors, title companies, and other such
339 professional assistance as is necessary to perfect or transfer
340 the title.

341 2. Rooms or units in dwellings containing living quarters
342 occupied or intended to be occupied by no more than four
343 families living independently of each other, if the owner
344 actually maintains and occupies one of such living quarters as
345 his or her residence.

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

347 (a) Prohibits a person engaged in the business of
348 furnishing appraisals of real property from taking into
349 consideration factors other than race, color, national origin,
350 sex, disability ~~handicap~~, familial status, or religion.

351 Section 10. Subsection (5) of section 760.31, Florida
352 Statutes, is amended to read:

353 760.31 Powers and duties of commission.—The commission
354 shall:

355 (5) Adopt rules necessary to implement ss. 760.20-760.37
356 and govern the proceedings of the commission in accordance with
357 chapter 120. Commission rules shall clarify terms used with
358 regard to ~~handicapped~~ accessibility for persons with
359 disabilities, exceptions from accessibility requirements based



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360 on terrain or site characteristics, and requirements related to
361 housing for older persons. Commission rules shall specify the
362 fee and the forms and procedures to be used for the registration
363 required by s. 760.29(4) (e).

364 Section 11. Section 817.265, Florida Statutes, is created
365 to read:

366 817.265 False or fraudulent proof of need for an emotional
367 support animal.—A person who falsifies information or written
368 documentation, or knowingly provides fraudulent information or
369 written documentation, for an emotional support animal under s.
370 760.27, or otherwise knowingly and willfully misrepresents
371 himself or herself, through his or her conduct or through a
372 verbal or written notice, as having a disability or disability-
373 related need for an emotional support animal or being otherwise
374 qualified to use an emotional support animal, commits a
375 misdemeanor of the second degree, punishable as provided in s.
376 775.082 or s. 775.083. In addition, within 6 months after a
377 conviction under this section, a person must perform 30 hours of
378 community service for an organization that serves persons with
379 disabilities or for another entity or organization that the
380 court determines is appropriate.

381 Section 12. This act shall take effect July 1, 2020.

382
383 ===== T I T L E A M E N D M E N T =====

384 And the title is amended as follows:

385 Delete everything before the enacting clause
386 and insert:

387 A bill to be entitled

388 An act relating to emotional support animals; creating



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389 s. 760.27, F.S.; defining the terms "emotional support
390 animal" and "housing provider"; prohibiting
391 discrimination in housing provided to a person with a
392 disability or a disability-related need for an
393 emotional support animal; specifying that such person
394 may not be required to pay extra compensation for such
395 animal; authorizing a housing provider to request
396 specified information under certain circumstances;
397 restricting such requests; specifying liability for
398 owners of emotional support animals relating to damage
399 done by their emotional support animals; providing
400 applicability; amending s. 413.08, F.S.; providing
401 applicability; amending s. 456.072, F.S.; prohibiting
402 a health care practitioner from providing information
403 regarding a person's need for an emotional support
404 animal without having personal knowledge of that
405 person's need for the animal; amending s. 760.22,
406 F.S.; revising the definition of the term "handicap";
407 amending ss. 419.001, 760.23, 760.24, 760.25, 760.29,
408 and 760.31, F.S.; replacing the term "handicap" with
409 the term "disability," to conform to changes made by
410 the act; conforming provisions to changes made by the
411 act; creating s. 817.265, F.S.; prohibiting the
412 falsification of information or other fraudulent
413 misrepresentation regarding the use of an emotional
414 support animal; providing penalties; providing an
415 effective date.