

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 or 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.

116 (9) "Labor organization" means any organization that ~~which~~

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117 exists for the purpose, in whole or in part, of collective
118 bargaining or of dealing with employers concerning grievances,
119 terms or conditions of employment, or other mutual aid or
120 protection in connection with employment.

121 (1)~~(10)~~ "Aggrieved person" means any person who files a
122 complaint with the ~~Human Relations~~ commission.

123 (12)~~(11)~~ "Public accommodations" means places of public
124 accommodation, lodgings, facilities principally engaged in
125 selling food for consumption on the premises, gasoline stations,
126 places of exhibition or entertainment, and other covered
127 establishments. Each of the following establishments which
128 serves the public is a place of public accommodation within the
129 meaning of this section:

130 (a) Any inn, hotel, motel, or other establishment that
131 ~~which~~ provides lodging to transient guests, other than an
132 establishment located within a building that ~~which~~ contains not
133 more than four rooms for rent or hire and that ~~which~~ is actually
134 occupied by the proprietor of such establishment as his or her
135 residence.

136 (b) Any restaurant, cafeteria, lunchroom, lunch counter,
137 soda fountain, or other facility principally engaged in selling
138 food for consumption on the premises, including, but not limited
139 to, any such facility located on the premises of any retail
140 establishment, or any gasoline station.

141 (c) Any motion picture theater, theater, concert hall,
142 sports arena, stadium, or other place of exhibition or
143 entertainment.

144 (d) Any establishment that ~~which~~ is physically located
145 within the premises of any establishment otherwise covered by

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146 this subsection, or within the premises of which is physically
147 located any such covered establishment, and that ~~which~~ holds
148 itself out as serving patrons of such covered establishment.

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

151 Section 5. Section 760.05, Florida Statutes, is amended to
152 read:

153 760.05 Functions of the commission.—The commission shall
154 promote and encourage fair treatment and equal opportunity for
155 all persons regardless of race, color, religion, sex, pregnancy,
156 national origin, age, sexual orientation, gender identity,
157 handicap, or marital status and mutual understanding and respect
158 among all members of society. ~~The commission all economic,~~
159 ~~social, racial, religious, and ethnic groups;~~ and shall endeavor
160 to eliminate discrimination against, and antagonism between,
161 persons on the basis of race, color, religion, sex, pregnancy,
162 national origin, age, sexual orientation, gender identity,
163 handicap, or marital status ~~religious, racial, and ethnic groups~~
164 ~~and their members.~~

165 Section 6. Section 760.07, Florida Statutes, is amended to
166 read:

167 760.07 Remedies for unlawful discrimination.—Any violation
168 of any state law ~~Florida statute~~ making unlawful discrimination
169 because of race, color, religion, gender, pregnancy, national
170 origin, age, sexual orientation, gender identity, handicap, or
171 marital status in the areas of education, employment, housing,
172 or public accommodations gives rise to a cause of action for all
173 relief and damages described in s. 760.11(5), unless greater
174 damages are expressly provided for. If the statute prohibiting

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175 unlawful discrimination provides an administrative remedy, the
176 action for equitable relief and damages provided for in this
177 section may be initiated only after the plaintiff has exhausted
178 his or her administrative remedy. The term "public
179 accommodations" does not include lodge halls or other similar
180 facilities of private organizations which are made available for
181 public use occasionally or periodically. The right to trial by
182 jury is preserved in any case in which the plaintiff is seeking
183 actual or punitive damages.

184 Section 7. Section 760.08, Florida Statutes, is amended to
185 read:

186 760.08 Discrimination in places of public accommodation.—
187 All persons are entitled to the full and equal enjoyment of the
188 goods, services, facilities, privileges, advantages, and
189 accommodations of any place of public accommodation without
190 discrimination or segregation on the ground of race, color,
191 national origin, sex, sexual orientation, gender identity,
192 pregnancy, handicap, familial status, or religion.

193 Section 8. Subsections (1) and (2), paragraphs (a) and (b)
194 of subsection (3), subsections (4), (5), and (6), paragraph (a)
195 of subsection (8), and subsection (9) of section 760.10, Florida
196 Statutes, are amended, and subsection (10) of that section is
197 republished, to read:

198 760.10 Unlawful employment practices.—

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

200 (a) To discharge or to fail or refuse to hire any
201 individual, or otherwise to discriminate against any individual
202 with respect to compensation, terms, conditions, or privileges
203 of employment, because of such individual's race, color,

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204 religion, sex, pregnancy, national origin, age, sexual
205 orientation, gender identity, handicap, or marital status.

206 (b) To limit, segregate, or classify employees or
207 applicants for employment in any way that ~~which~~ would deprive or
208 tend to deprive any individual of employment opportunities, or
209 adversely affect any individual's status as an employee, because
210 of such individual's race, color, religion, sex, pregnancy,
211 national origin, age, sexual orientation, gender identity,
212 handicap, or marital status.

213 (2) It is an unlawful employment practice for an employment
214 agency to fail or refuse to refer for employment, or otherwise
215 to discriminate against, any individual because of race, color,
216 religion, sex, pregnancy, national origin, age, sexual
217 orientation, gender identity, handicap, or marital status or to
218 classify or refer for employment any individual on the basis of
219 race, color, religion, sex, pregnancy, national origin, age,
220 sexual orientation, gender identity, handicap, or marital
221 status.

222 (3) It is an unlawful employment practice for a labor
223 organization:

224 (a) To exclude or to expel from its membership, or
225 otherwise to discriminate against, any individual because of
226 race, color, religion, sex, pregnancy, national origin, age,
227 sexual orientation, gender identity, handicap, or marital
228 status.

229 (b) To limit, segregate, or classify its membership or
230 applicants for membership, or to classify or fail or refuse to
231 refer for employment any individual, in any way that would
232 deprive or tend to deprive any individual of employment

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233 opportunities, or adversely affect any individual's status as an
234 employee or as an applicant for employment, because of such
235 individual's race, color, religion, sex, pregnancy, national
236 origin, age, sexual orientation, gender identity, handicap, or
237 marital status.

238 (4) It is an unlawful employment practice for any employer,
239 labor organization, or joint labor-management committee
240 controlling apprenticeship or other training or retraining,
241 including on-the-job training programs, to discriminate against
242 any individual because of race, color, religion, sex, pregnancy,
243 national origin, age, sexual orientation, gender identity,
244 handicap, or marital status in admission to, or employment in,
245 any program established to provide apprenticeship or other
246 training.

247 (5) Whenever, in order to engage in a profession,
248 occupation, or trade, it is required that a person receive a
249 license, certification, or other credential;~~;~~ become a member or
250 an associate of any club, association, or other organization;~~;~~
251 or pass any examination, it is an unlawful employment practice
252 for any person to discriminate against any other person seeking
253 such license, certification, or other credential;~~;~~ seeking to
254 become a member or associate of such club, association, or other
255 organization;~~;~~ or seeking to take or pass such examination,
256 because of such other person's race, color, religion, sex,
257 pregnancy, national origin, age, sexual orientation, gender
258 identity, handicap, or marital status.

259 (6) It is an unlawful employment practice for an employer,
260 a labor organization, an employment agency, or a joint labor-
261 management committee to print, or cause to be printed or

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262 published, any notice or advertisement relating to employment,
263 membership, classification, referral for employment, or
264 apprenticeship or other training which indicates,~~indicating~~ any
265 preference, limitation, specification, or discrimination~~,~~ based
266 on race, color, religion, sex, pregnancy, national origin, age,
267 sexual orientation, gender identity, absence of handicap, or
268 marital status.

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

273 (a) Take or fail to take any action on the basis of
274 religion, sex, pregnancy, national origin, age, sexual
275 orientation, gender identity, handicap, or marital status in
276 those certain instances in which religion, sex, condition of
277 pregnancy, national origin, age, sexual orientation, gender
278 identity, absence of a particular handicap, or marital status is
279 a bona fide occupational qualification reasonably necessary for
280 the performance of the particular employment to which such
281 action or inaction is related.

282 (9) (a) This section does ~~shall~~ not apply to any religious
283 corporation, association, educational institution, or society
284 that ~~which~~ conditions opportunities in the area of employment or
285 public accommodation to members of that religious corporation,
286 association, educational institution, or society or to persons
287 who subscribe to its tenets or beliefs.

288 (b) This section does ~~shall~~ not prohibit a religious
289 corporation, association, educational institution, or society
290 from giving preference in employment to individuals of a

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291 particular religion to perform work connected with the carrying
292 on by such corporations, associations, educational institutions,
293 or societies of its various activities.

294 (c) This section and s. 760.08 do not limit the free
295 exercise of religion guaranteed by the United States
296 Constitution and the State Constitution.

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

302 Section 9. Section 760.22, Florida Statutes, is amended to
303 read:

304 760.22 Definitions.—As used in ss. 760.20-760.37, the term:

305 (1) "Commission" means the Florida Commission on Human
306 Relations.

307 (2) "Covered multifamily dwelling" means:

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

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

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

314 (4) "Dwelling" means any building or structure, or portion
315 thereof, which is occupied as, or designed or intended for
316 occupancy as, a residence by one or more families, and any
317 vacant land that ~~which~~ is offered for sale or lease for the
318 construction or location on the land of any such building or
319 structure, or portion thereof.

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

322 (a) A parent or other person having legal custody of such
323 individual; or

324 (b) A designee of a parent or other person having legal
325 custody, with the written permission of such parent or other
326 person.

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

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

330 (8)~~(7)~~ "Handicap" means:

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

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

337 (9)~~(8)~~ "Person" includes one or more individuals,
338 corporations, partnerships, associations, labor organizations,
339 legal representatives, mutual companies, joint-stock companies,
340 trusts, unincorporated organizations, trustees, trustees in
341 bankruptcy, receivers, and fiduciaries.

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

344 (11)~~(9)~~ "Substantially equivalent" means an administrative
345 subdivision of the State of Florida meeting the requirements of
346 24 C.F.R. part 115, s. 115.6.

347 (12)~~(10)~~ "To rent" includes to lease, to sublease, to let,
348 and otherwise to grant for a consideration the right to occupy

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349 premises not owned by the occupant.

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

352 760.23 Discrimination in the sale or rental of housing and
353 other prohibited practices.—

354 (1) It is unlawful to refuse to sell or rent after the
355 making of a bona fide offer, to refuse to negotiate for the sale
356 or rental of, or otherwise to make unavailable or deny a
357 dwelling to any person because of race, color, national origin,
358 sex, sexual orientation, gender identity, handicap, familial
359 status, or religion.

360 (2) It is unlawful to discriminate against any person in
361 the terms, conditions, or privileges of sale or rental of a
362 dwelling, or in the provision of services or facilities in
363 connection therewith, because of race, color, national origin,
364 sex, sexual orientation, gender identity, handicap, familial
365 status, or religion.

366 (3) It is unlawful to make, print, or publish, or cause to
367 be made, printed, or published, any notice, statement, or
368 advertisement with respect to the sale or rental of a dwelling
369 that indicates any preference, limitation, or discrimination
370 based on race, color, national origin, sex, sexual orientation,
371 gender identity, handicap, familial status, or religion or an
372 intention to make any such preference, limitation, or
373 discrimination.

374 (4) It is unlawful to represent to any person because of
375 race, color, national origin, sex, sexual orientation, gender
376 identity, handicap, familial status, or religion that any
377 dwelling is not available for inspection, sale, or rental when

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378 such dwelling is in fact so available.

379 (5) It is unlawful, for profit, to induce or attempt to
380 induce any person to sell or rent any dwelling by a
381 representation regarding the entry or prospective entry into the
382 neighborhood of a person or persons of a particular race, color,
383 national origin, sex, sexual orientation, gender identity,
384 handicap, familial status, or religion.

385 Section 11. Section 760.24, Florida Statutes, is amended to
386 read:

387 760.24 Discrimination in the provision of brokerage
388 services.—It is unlawful to deny any person access to, or
389 membership or participation in, any multiple-listing service,
390 real estate brokers' organization, or other service,
391 organization, or facility relating to the business of selling or
392 renting dwellings, or to discriminate against him or her in the
393 terms or conditions of such access, membership, or
394 participation, because ~~on account~~ of race, color, national
395 origin, sex, sexual orientation, gender identity, handicap,
396 familial status, or religion.

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

399 760.25 Discrimination in the financing of housing or in
400 residential real estate transactions.—

401 (1) It is unlawful for any bank, building and loan
402 association, insurance company, or other corporation,
403 association, firm, or enterprise the business of which consists
404 in whole or in part of the making of commercial real estate
405 loans to deny a loan or other financial assistance to a person
406 applying for the loan for the purpose of purchasing,

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407 constructing, improving, repairing, or maintaining a dwelling,
408 or to discriminate against him or her in the fixing of the
409 amount, interest rate, duration, or other term or condition of
410 such loan or other financial assistance, because of the race,
411 color, national origin, sex, sexual orientation, gender
412 identity, handicap, familial status, or religion of such person
413 or of any person associated with him or her in connection with
414 such loan or other financial assistance or the purposes of such
415 loan or other financial assistance, or because of the race,
416 color, national origin, sex, sexual orientation, gender
417 identity, handicap, familial status, or religion of the present
418 or prospective owners, lessees, tenants, or occupants of the
419 dwelling or dwellings in relation to which such loan or other
420 financial assistance is to be made or given.

421 (2) (a) It is unlawful for any person or entity whose
422 business includes engaging in residential real estate
423 transactions to discriminate against any person in making
424 available such a transaction, or in the terms or conditions of
425 such a transaction, because of race, color, national origin,
426 sex, sexual orientation, gender identity, handicap, familial
427 status, or religion.

428 Section 13. Section 760.26, Florida Statutes, is amended to
429 read:

430 760.26 Prohibited discrimination in land use decisions and
431 in permitting of development.—It is unlawful to discriminate in
432 land use decisions or in the permitting of development based on
433 race, color, national origin, sex, sexual orientation, gender
434 identity, disability, familial status, religion, or, except as
435 otherwise provided by law, the source of financing of a

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436 development or proposed development.

437 Section 14. Paragraph (a) of subsection (5) of section
438 760.29, Florida Statutes, is amended to read:

439 760.29 Exemptions.—

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

441 (a) Prohibits a person engaged in the business of
442 furnishing appraisals of real property from taking into
443 consideration factors other than race, color, national origin,
444 sex, sexual orientation, gender identity, handicap, familial
445 status, or religion.

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

448 760.60 Discriminatory practices of certain clubs
449 prohibited; remedies.—

450 (1) It is unlawful for a person to discriminate against any
451 individual because of race, color, religion, gender, national
452 origin, handicap, age above the age of 21, sexual orientation,
453 gender identity, or marital status in evaluating an application
454 for membership in a club that has more than 400 members, that
455 provides regular meal service, and that regularly receives
456 payment for dues, fees, use of space, facilities, services,
457 meals, or beverages directly or indirectly from nonmembers for
458 business purposes. It is unlawful for a person, on behalf of
459 such a club, to publish, circulate, issue, display, post, or
460 mail any advertisement, notice, or solicitation that contains a
461 statement to the effect that the accommodations, advantages,
462 facilities, membership, or privileges of the club are denied to
463 any individual because of race, color, religion, gender,
464 national origin, handicap, age above the age of 21, sexual

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465 orientation, gender identity, or marital status. This subsection
466 does not apply to fraternal or benevolent organizations, ethnic
467 clubs, or religious organizations where business activity is not
468 prevalent.

469 Section 16. Paragraph (e) of subsection (1) of section
470 419.001, Florida Statutes, is amended to read:

471 419.001 Site selection of community residential homes.—

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

473 (e) "Resident" means any of the following: a frail elder as
474 defined in s. 429.65; a person who has a handicap as defined in
475 s. 760.22(8)(a) ~~s. 760.22(7)(a)~~; a person who has a
476 developmental disability as defined in s. 393.063; a
477 nondangerous person who has a mental illness as defined in s.
478 394.455; or a child who is found to be dependent as defined in
479 s. 39.01 or s. 984.03, or a child in need of services as defined
480 in s. 984.03 or s. 985.03.

481 Section 17. This act shall take effect July 1, 2020.