

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

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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:

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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. Subsections (2), (4), and (8) of section
54 760.11, Florida Statutes, are amended to read:

55 760.11 Administrative and civil remedies; construction.—

56 (2) If ~~In the event that~~ any other agency of the state or
57 of any other unit of government of the state has jurisdiction of
58 the subject matter of any complaint filed with the commission
59 and has legal authority to investigate the complaint, the
60 commission may refer such complaint to such agency for an
61 investigation. Referral of such a complaint by the commission
62 does ~~shall~~ not constitute agency action within the meaning of s.
63 120.52. If the commission refers a complaint to another agency
64 ~~In the event of any referral~~ under this subsection, the
65 commission shall accord substantial weight to any findings and
66 conclusions of any such agency. The referral of a complaint by
67 the commission to a local agency does not divest the
68 commission's jurisdiction over the complaint.

69 (4) If ~~In the event that~~ the commission determines that
70 there is reasonable cause to believe that a discriminatory
71 practice has occurred in violation of the Florida Civil Rights
72 Act of 1992, the aggrieved person may either:

73 (a) Bring a civil action against the person named in the
74 complaint in any court of competent jurisdiction; or

75 (b) Request an administrative hearing under ss. 120.569

76 | and 120.57.

77 |
 78 | The election by the aggrieved person of filing a civil action or
 79 | requesting an administrative hearing under this subsection is
 80 | the exclusive procedure available to the aggrieved person under
 81 | ~~pursuant to~~ this act.

82 | (8) ~~If in the event that~~ the commission fails to
 83 | conciliate or determine whether there is reasonable cause on any
 84 | complaint under this section within 180 days after ~~of~~ the filing
 85 | of the complaint:7

86 | (a) An aggrieved person may proceed under subsection (4)7
 87 | as if the commission determined that there was reasonable cause.

88 | (b) The commission shall promptly notify the aggrieved
 89 | person of the failure to conciliate or determine whether there
 90 | is reasonable cause. The notice shall provide the options
 91 | available to the aggrieved person under subsection (4) and
 92 | inform the aggrieved person that he or she must file a civil
 93 | action within 1 year after the date the commission certifies
 94 | that the notice was mailed.

95 | (c) A civil action brought by an aggrieved person under
 96 | this section must be commenced within 1 year after the date the
 97 | commission certifies that the notice was mailed pursuant to
 98 | paragraph (b).

99 | Section 4. Subsection (4) of section 760.29, Florida
 100 | Statutes, is amended to read:

101 760.29 Exemptions.—

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

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

107 1. Provided under any state or federal program that the
 108 commission determines is specifically designed and operated to
 109 assist elderly persons, as defined in the state or federal
 110 program;

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

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

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

117 b. The housing facility or community publishes and adheres
 118 to policies and procedures that demonstrate the intent required
 119 under this subparagraph. If the housing facility or community
 120 meets the requirements of sub-subparagraphs a. and c. and the
 121 recorded governing documents provide for an adult, senior, or
 122 retirement housing facility or community and the governing
 123 documents lack an amendatory procedure, prohibit amendments, or
 124 restrict amendments until a specified future date, then that
 125 housing facility or community shall be deemed housing for older

126 persons intended and operated for occupancy by persons 55 years
127 of age or older. If those documents further provide a
128 prohibition against residents 16 years of age or younger, that
129 provision shall be construed, for purposes of the Fair Housing
130 Act, to only apply to residents 18 years of age or younger, in
131 order to conform with federal law requirements. Governing
132 documents which can be amended at a future date must be amended
133 and properly recorded within 1 year after that date to reflect
134 the requirements for consideration as housing for older persons,
135 if that housing facility or community intends to continue as
136 housing for older persons.

137 c. The housing facility or community complies with rules
138 made by the Secretary of the United States Department of Housing
139 and Urban Development pursuant to 24 C.F.R. part 100 for
140 verification of occupancy, which rules provide for verification
141 by reliable surveys and affidavits and include examples of the
142 types of policies and procedures relevant to a determination of
143 compliance with the requirements of sub-subparagraph b. Such
144 surveys and affidavits are admissible in administrative and
145 judicial proceedings for the purposes of such verification.

146 (c) Housing may still ~~shall not fail to~~ be considered
147 housing for older persons if:

148 1. A person who resides in such housing on or after
149 October 1, 1989, does not meet the age requirements of this
150 subsection, provided that any new occupant meets such age

151 requirements; or

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

155 (d) A person is ~~shall~~ not ~~be~~ personally liable for
156 monetary damages for a violation of this subsection if such
157 person reasonably relied in good faith on the application of the
158 exemption under this subsection relating to housing for older
159 persons. For purposes of this paragraph, a person may show good
160 faith reliance on the application of the exemption only by
161 showing that:

162 1. The person has no actual knowledge that the facility or
163 the community is ineligible, or will become ineligible, for such
164 exemption; and

165 2. The facility or community has stated formally, in
166 writing, that the facility or community complies with the
167 requirements for such exemption.

168 ~~(e) A facility or community claiming an exemption under~~
169 ~~this subsection shall register with the commission and submit a~~
170 ~~letter to the commission stating that the facility or community~~
171 ~~complies with the requirements of subparagraph (b)1.,~~
172 ~~subparagraph (b)2., or subparagraph (b)3. The letter shall be~~
173 ~~submitted on the letterhead of the facility or community and~~
174 ~~shall be signed by the president of the facility or community.~~
175 ~~This registration and documentation shall be renewed biennially~~

176 ~~from the date of original filing. The information in the~~
177 ~~registry shall be made available to the public, and the~~
178 ~~commission shall include this information on an Internet~~
179 ~~website. The commission may establish a reasonable registration~~
180 ~~fee, not to exceed \$20, that shall be deposited into the~~
181 ~~commission's trust fund to defray the administrative costs~~
182 ~~associated with maintaining the registry. The commission may~~
183 ~~impose an administrative fine, not to exceed \$500, on a facility~~
184 ~~or community that knowingly submits false information in the~~
185 ~~documentation required by this paragraph. Such fines shall be~~
186 ~~deposited in the commission's trust fund. The registration and~~
187 ~~documentation required by this paragraph shall not substitute~~
188 ~~for proof of compliance with the requirements of this~~
189 ~~subsection. Failure to comply with the requirements of this~~
190 ~~paragraph shall not disqualify a facility or community that~~
191 ~~otherwise qualifies for the exemption provided in this~~
192 ~~subsection.~~

193

194 A county or municipal ordinance regarding housing for older
195 persons may not contravene the provisions of this subsection.

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

198 760.31 Powers and duties of commission.—The commission
199 shall:

200 (5) Adopt rules necessary to implement ss. 760.20-760.37

201 and govern the proceedings of the commission in accordance with
 202 chapter 120. Commission rules shall clarify terms used with
 203 regard to handicapped accessibility, exceptions from
 204 accessibility requirements based on terrain or site
 205 characteristics, and requirements related to housing for older
 206 persons. ~~Commission rules shall specify the fee and the forms~~
 207 ~~and procedures to be used for the registration required by s.~~
 208 ~~760.29(4)(e).~~

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

211 760.60 Discriminatory practices of certain clubs
 212 prohibited; remedies.—

213 (2) A person who has been discriminated against in
 214 violation of this act may file a complaint with the Commission
 215 on Human Relations or with the Attorney General's Office of
 216 Civil Rights. A complaint must be in writing and must contain
 217 such information and be in such form as the commission requires.
 218 Upon receipt of a complaint, the commission or the Attorney
 219 General shall provide a copy to the person who represents the
 220 club. Within 30 days after receiving a complaint, the commission
 221 or the Attorney General shall ~~investigate the alleged~~
 222 ~~discrimination~~ and give notice in writing to the person who
 223 filed the complaint if it intends to resolve the complaint. If
 224 the commission or the Attorney General decides to resolve the
 225 complaint, it shall attempt to eliminate or correct the alleged

226 | discriminatory practices of a club by informal methods of
 227 | conference, conciliation, and persuasion.

228 | (3) If the commission or the Attorney General fails,
 229 | within 30 days after receiving a complaint filed under pursuant
 230 | ~~to~~ subsection (2), to give notice of its intent to resolve the
 231 | complaint ~~to eliminate or correct the alleged discriminatory~~
 232 | ~~practices of a club~~, or if the commission or the Attorney
 233 | General fails to resolve the complaint within 45 ~~30~~ days after
 234 | giving such notice, the person or the Attorney General on behalf
 235 | of the person filing the complaint may commence a civil action
 236 | in a court against the club, its officers, or its members to
 237 | enforce this section. If the court finds that a discriminatory
 238 | practice occurs at the club, the court may enjoin the club, its
 239 | officers, or its members from engaging in such practice or may
 240 | order other appropriate action.

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

244 | 112.31895 Investigative procedures in response to
 245 | prohibited personnel actions.—

246 | (1) (a) If a disclosure under s. 112.3187 includes or
 247 | results in alleged retaliation by an employer, the employee or
 248 | former employee of, or applicant for employment with, a state
 249 | agency, as defined in s. 216.011, that is so affected may file a
 250 | complaint alleging a prohibited personnel action, which

251 complaint must be made by filing a written complaint with the
 252 Office of the Chief Inspector General in the Executive Office of
 253 the Governor or the Florida Commission on Human Relations, no
 254 later than 60 days after the prohibited personnel action.

255 (b) Within 5 ~~three~~ working days after receiving a
 256 complaint under this section, the office or officer receiving
 257 the complaint shall acknowledge receipt of the complaint and
 258 provide copies of the complaint and any other preliminary
 259 information available concerning the disclosure of information
 260 under s. 112.3187 to each of the other parties named in
 261 paragraph (a), which parties shall each acknowledge receipt of
 262 such copies to the complainant.

263 (2) FACT FINDING.—The Florida Commission on Human
 264 Relations shall:

265 (a) Receive any allegation of a personnel action
 266 prohibited by s. 112.3187, including a proposed or potential
 267 action, and conduct informal fact finding regarding any
 268 allegation under this section, to the extent necessary to
 269 determine whether there are reasonable grounds to believe that a
 270 prohibited personnel action under s. 112.3187 has occurred, is
 271 occurring, or is to be taken.

272 ~~(b) Notify the complainant, within 15 days after receiving~~
 273 ~~a complaint, that the complaint has been received by the~~
 274 ~~department.~~

275 ~~(b)(e)~~ Within 180 ~~90~~ days after receiving the complaint,

276 | provide the agency head and the complainant with a fact-finding
277 | report that may include recommendations to the parties or
278 | proposed resolution of the complaint. The fact-finding report
279 | shall be presumed admissible in any subsequent or related
280 | administrative or judicial review.

281 | (3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

282 | (d) If the Florida Commission on Human Relations is unable
283 | to conciliate a complaint within 35 ~~60~~ days after providing the
284 | agency head and complainant with ~~receipt of~~ the fact-finding
285 | report, the Florida Commission on Human Relations shall
286 | terminate the investigation. Upon termination of any
287 | investigation, the Florida Commission on Human Relations shall
288 | notify the complainant and the agency head of the termination of
289 | the investigation, providing a summary of relevant facts found
290 | during the investigation and the reasons for terminating the
291 | investigation. A written statement under this paragraph is
292 | presumed admissible as evidence in any judicial or
293 | administrative proceeding but is not admissible without the
294 | consent of the complainant.

295 | (e)1. The Florida Commission on Human Relations may
296 | request an agency or circuit court to order a stay, on such
297 | terms as the court requires, of any personnel action for 45 days
298 | if the Florida Commission on Human Relations determines that
299 | reasonable grounds exist to believe that a prohibited personnel
300 | action has occurred, is occurring, or is to be taken. The

301 Florida Commission on Human Relations may request that such stay
302 be extended for appropriate periods of time.

303 2. If, in connection with any investigation, the Florida
304 Commission on Human Relations determines that reasonable grounds
305 exist to believe that a prohibited action has occurred, is
306 occurring, or is to be taken which requires corrective action,
307 the Florida Commission on Human Relations shall report the
308 determination together with any findings or recommendations to
309 the agency head and may report that determination and those
310 findings and recommendations to the Governor and the Chief
311 Financial Officer. The Florida Commission on Human Relations may
312 include in the report recommendations for corrective action to
313 be taken.

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

319 4. If the Florida Commission on Human Relations finds, in
320 consultation with the individual subject to the prohibited
321 action, that the agency has implemented the corrective action,
322 the commission shall file such finding with the agency head,
323 together with any written comments that the individual provides,
324 and terminate the investigation.

325 (4) RIGHT TO APPEAL.—

326 (a) Not more than 21 ~~60~~ days after receipt of a notice of
327 termination of the investigation from the Florida Commission on
328 Human Relations, the complainant may file, with the Public
329 Employees Relations Commission, a complaint against the
330 employer-agency regarding the alleged prohibited personnel
331 action. The Public Employees Relations Commission shall have
332 jurisdiction over such complaints under ss. 112.3187 and
333 447.503(4) and (5).

334 Section 8. This act shall take effect July 1, 2020.