

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

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:

30 |

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) Six ~~Seven~~ members shall constitute a quorum for the
 35 | conduct of business; however, the commission may establish
 36 | panels of not less than three of its members to exercise its
 37 | powers under the Florida Civil Rights Act of 1992, subject to
 38 | such procedures and limitations as the commission may provide by
 39 | rule. Notwithstanding this subsection, three appointed members
 40 | serving on panels shall constitute a quorum for the conduct of
 41 | official business of the panel.

42 | Section 2. Paragraph (a) of subsection (3) of section
 43 | 760.065, Florida Statutes, is amended to read:

44 | 760.065 Florida Civil Rights Hall of Fame.—

45 | (3) (a) The commission shall annually accept nominations
 46 | for persons to be recommended as members of the Florida Civil
 47 | Rights Hall of Fame. The commission shall recommend up to 10
 48 | persons from which the Governor shall select up to 3 hall-of-
 49 | fame members.

50 | Section 3. Subsections (2), (4), and (8) of section

51 760.11, Florida Statutes, are amended to read:

52 760.11 Administrative and civil remedies; construction.—

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

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

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

72 (b) Request an administrative hearing under ss. 120.569
73 and 120.57.

74
75 The election by the aggrieved person of filing a civil action or

76 requesting an administrative hearing under this subsection is
 77 the exclusive procedure available to the aggrieved person under
 78 ~~pursuant to~~ this act.

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

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

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

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

96 Section 4. Subsection (4) of section 760.29, Florida
 97 Statutes, is amended to read:

98 760.29 Exemptions.—

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

101 persons.

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

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

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

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

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

114 b. The housing facility or community publishes and adheres
115 to policies and procedures that demonstrate the intent required
116 under this subparagraph. If the housing facility or community
117 meets the requirements of sub-subparagraphs a. and c. and the
118 recorded governing documents provide for an adult, senior, or
119 retirement housing facility or community and the governing
120 documents lack an amendatory procedure, prohibit amendments, or
121 restrict amendments until a specified future date, then that
122 housing facility or community shall be deemed housing for older
123 persons intended and operated for occupancy by persons 55 years
124 of age or older. If those documents further provide a
125 prohibition against residents 16 years of age or younger, that

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

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

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

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

149 2. One or more units are unoccupied, provided that any
150 unoccupied units are reserved for occupancy by persons who meet

151 the age requirements of this subsection.

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

159 1. The person has no actual knowledge that the facility or
160 the community is ineligible, or will become ineligible, for such
161 exemption; and

162 2. The facility or community has stated formally, in
163 writing, that the facility or community complies with the
164 requirements for such exemption.

165 ~~(e) A facility or community claiming an exemption under~~
166 ~~this subsection shall register with the commission and submit a~~
167 ~~letter to the commission stating that the facility or community~~
168 ~~complies with the requirements of subparagraph (b)1.,~~
169 ~~subparagraph (b)2., or subparagraph (b)3. The letter shall be~~
170 ~~submitted on the letterhead of the facility or community and~~
171 ~~shall be signed by the president of the facility or community.~~
172 ~~This registration and documentation shall be renewed biennially~~
173 ~~from the date of original filing. The information in the~~
174 ~~registry shall be made available to the public, and the~~
175 ~~commission shall include this information on an Internet~~

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

190
 191 A county or municipal ordinance regarding housing for older
 192 persons may not contravene the provisions of this subsection.

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

195 760.31 Powers and duties of commission.—The commission
 196 shall:

197 (5) Adopt rules necessary to implement ss. 760.20-760.37
 198 and govern the proceedings of the commission in accordance with
 199 chapter 120. Commission rules shall clarify terms used with
 200 regard to handicapped accessibility, exceptions from

201 accessibility requirements based on terrain or site
202 characteristics, and requirements related to housing for older
203 persons. ~~Commission rules shall specify the fee and the forms~~
204 ~~and procedures to be used for the registration required by s.~~
205 ~~760.29(4)(e).~~

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

208 760.60 Discriminatory practices of certain clubs
209 prohibited; remedies.—

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

225 (3) If the commission or the Attorney General fails,

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

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

241 112.31895 Investigative procedures in response to
242 prohibited personnel actions.—

243 (1) (a) If a disclosure under s. 112.3187 includes or
244 results in alleged retaliation by an employer, the employee or
245 former employee of, or applicant for employment with, a state
246 agency, as defined in s. 216.011, that is so affected may file a
247 complaint alleging a prohibited personnel action, which
248 complaint must be made by filing a written complaint with the
249 Office of the Chief Inspector General in the Executive Office of
250 the Governor or the Florida Commission on Human Relations, no

251 later than 60 days after the prohibited personnel action.

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

260 (2) FACT FINDING.—The Florida Commission on Human
261 Relations shall:

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

269 ~~(b) Notify the complainant, within 15 days after receiving~~
270 ~~a complaint, that the complaint has been received by the~~
271 ~~department.~~

272 ~~(b)(e)~~ Within 180 ~~90~~ days after receiving the complaint,
273 provide the agency head and the complainant with a fact-finding
274 report that may include recommendations to the parties or
275 proposed resolution of the complaint. The fact-finding report

276 shall be presumed admissible in any subsequent or related
 277 administrative or judicial review.

278 (3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

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

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

300 2. If, in connection with any investigation, the Florida

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

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

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

322 (4) RIGHT TO APPEAL.—

323 (a) Not more than 21 ~~60~~ days after receipt of a notice of
 324 termination of the investigation from the Florida Commission on
 325 Human Relations, the complainant may file, with the Public

326 | Employees Relations Commission, a complaint against the
327 | employer-agency regarding the alleged prohibited personnel
328 | action. The Public Employees Relations Commission shall have
329 | jurisdiction over such complaints under ss. 112.3187 and
330 | 447.503(4) and (5).

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