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CS/HB 255

2020 Legislature

1  
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:  
 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

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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

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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

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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

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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

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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~~

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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



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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,

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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

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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

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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

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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

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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.