

By Senator Rouson

19-00605-20

2020374__

1 A bill to be entitled
2 An act relating to housing discrimination; amending s.
3 760.07, F.S.; removing housing discrimination as a
4 cause of action for certain relief and damages
5 stemming from violations of the Florida Civil Rights
6 Act of 1992; amending s. 760.34, F.S.; revising the
7 conditions under which an aggrieved person may
8 commence a civil action in any appropriate court
9 against a specified respondent to enforce specified
10 rights; providing that the aggrieved person does not
11 need to pursue certain other remedies before
12 commencing a civil action; making technical changes;
13 amending s. 760.35, F.S.; authorizing, rather than
14 requiring, a civil action to commence within a
15 specified period after an alleged discriminatory
16 housing practice; authorizing an aggrieved person to
17 commence a civil action regardless of certain
18 circumstances; prohibiting an aggrieved person from
19 filing a specified action in certain circumstances;
20 providing an exception; prohibiting an aggrieved
21 person from commencing a specified civil action if an
22 administrative law judge has commenced a hearing on
23 the record on the allegation; making technical
24 changes; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 760.07, Florida Statutes, is amended to
29 read:

19-00605-20

2020374__

30 760.07 Remedies for unlawful discrimination.—Any violation
31 of any Florida statute that makes ~~making~~ unlawful discrimination
32 because of race, color, religion, gender, pregnancy, national
33 origin, age, handicap, or marital status in the areas of
34 education, employment, ~~housing~~, or public accommodations gives
35 rise to a cause of action for all relief and damages described
36 in s. 760.11(5), unless greater damages are expressly provided
37 for. If the statute prohibiting unlawful discrimination provides
38 an administrative remedy, the action for equitable relief and
39 damages provided for in this section may be initiated only after
40 the plaintiff has exhausted his or her administrative remedy.
41 The term “public accommodations” does not include lodge halls or
42 other similar facilities of private organizations which are made
43 available for public use occasionally or periodically. The right
44 to trial by jury is preserved in any case in which the plaintiff
45 is seeking actual or punitive damages.

46 Section 2. Section 760.34, Florida Statutes, is amended to
47 read:

48 760.34 Enforcement.—

49 (1) Any person who claims to have been injured by a
50 discriminatory housing practice or who believes that he or she
51 will be injured by a discriminatory housing practice that is
52 about to occur may file a complaint with the commission.
53 Complaints shall be in writing and ~~shall~~ contain such
54 information and be in such form as the commission requires. Upon
55 receipt of such a complaint, the commission shall furnish a copy
56 to the person or persons who allegedly committed the
57 discriminatory housing practice or are about to commit the
58 alleged discriminatory housing practice. Within 100 days after

19-00605-20

2020374__

59 receiving a complaint, or within 100 days after the expiration
60 of any period of reference under subsection (3), the commission
61 shall investigate the complaint and give notice in writing to
62 the aggrieved person ~~aggrieved~~ whether it intends to resolve it.
63 If the commission decides to resolve the complaint, it shall
64 proceed to try to eliminate or correct the alleged
65 discriminatory housing practice by informal methods of
66 conference, conciliation, and persuasion. Insofar as possible,
67 conciliation meetings shall be held in the cities or other
68 localities where the discriminatory housing practices allegedly
69 occurred. Nothing said or done in the course of such informal
70 endeavors may be made public or used as evidence in a subsequent
71 proceeding under ss. 760.20-760.37 without the written consent
72 of the persons concerned. Any employee of the commission who
73 makes public any information in violation of this provision is
74 guilty of a misdemeanor of the first degree, punishable as
75 provided in s. 775.082 or s. 775.083.

76 (2) Any person who files a complaint under subsection (1)
77 must do so ~~be filed~~ within 1 year after the alleged
78 discriminatory housing practice occurred. The complaint must be
79 in writing and shall state the facts upon which the allegations
80 of a discriminatory housing practice are based. A complaint may
81 be reasonably and fairly amended at any time. A respondent may
82 file an answer to the complaint against him or her and, with the
83 leave of the commission, which shall be granted whenever it
84 would be reasonable and fair to do so, may amend his or her
85 answer at any time. Both the complaint and the answer must ~~shall~~
86 be verified.

87 (3) If ~~Wherever~~ a local fair housing law provides rights

19-00605-20

2020374__

88 and remedies for alleged discriminatory housing practices which
89 are substantially equivalent to the rights and remedies provided
90 in ss. 760.20-760.37, the commission shall notify the
91 appropriate local agency of any complaint filed under ss.
92 760.20-760.37 which appears to constitute a violation of the
93 local fair housing law, and the commission shall take no further
94 action with respect to such complaint if the local law
95 enforcement official has, within 30 days after ~~from~~ the date the
96 alleged offense was brought to his or her attention, commenced
97 proceedings in the matter. In no event shall the commission take
98 further action unless it certifies that in its judgment, under
99 the circumstances of the particular case, the protection of the
100 rights of the parties or the interests of justice require such
101 action.

102 ~~(4) If, within 180 days after a complaint is filed with the~~
103 ~~commission or within 180 days after expiration of any period of~~
104 ~~reference under subsection (3), the commission has been unable~~
105 ~~to obtain voluntary compliance with ss. 760.20-760.37, The~~
106 aggrieved person ~~aggrieved~~ may commence a civil action in any
107 appropriate court against the respondent named in the complaint
108 or petition for an administrative determination under ~~pursuant~~
109 ~~to~~ s. 760.35 to enforce the rights granted or protected by ss.
110 760.20-760.37 and is not required to petition for an
111 administrative hearing or exhaust administrative remedies before
112 commencing such action. If, as a result of its investigation
113 under subsection (1), the commission finds there is reasonable
114 cause to believe that a discriminatory housing practice has
115 occurred, at the request of the aggrieved person ~~aggrieved~~, the
116 Attorney General may bring an action in the name of the state on

19-00605-20

2020374__

117 behalf of the aggrieved person to enforce ~~the provisions of~~ ss.
118 760.20-760.37.

119 (5) In any proceeding brought under ~~pursuant to~~ this
120 section or s. 760.35, the burden of proof is on the complainant.

121 (6) If ~~Whenever~~ an action filed in court under ~~pursuant to~~
122 this section or s. 760.35 comes to trial, the commission shall
123 immediately terminate all efforts to obtain voluntary
124 compliance.

125 (7) (a) The commission may institute a civil action in any
126 appropriate court if it is unable to obtain voluntary compliance
127 with ss. 760.20-760.37. The commission does ~~need~~ not have to
128 petition ~~petitioned~~ for an administrative hearing or exhaust
129 ~~exhausted~~ its administrative remedies before ~~prior to~~ bringing a
130 civil action.

131 (b) The court may impose the following fines for each
132 violation of ss. 760.20-760.37:

133 1. Up to \$10,000, if the respondent has not previously been
134 found guilty of a violation of ss. 760.20-760.37.

135 2. Up to \$25,000, if the respondent has been found guilty
136 of one prior violation of ss. 760.20-760.37 within the preceding
137 5 years.

138 3. Up to \$50,000, if the respondent has been found guilty
139 of two or more violations of ss. 760.20-760.37 within the
140 preceding 7 years.

141
142 In imposing a fine under this paragraph, the court shall
143 consider the nature and circumstances of the violation, the
144 degree of culpability, the history of prior violations of ss.
145 760.20-760.37, the financial circumstances of the respondent,

19-00605-20

2020374__

146 and the goal of deterring future violations of ss. 760.20-
147 760.37.

148 (c) The court shall award reasonable attorney ~~attorney's~~
149 fees and costs to the commission in any action in which the
150 commission prevails.

151 (8) Any local agency certified as substantially equivalent
152 may institute a civil action in any appropriate court, including
153 circuit court, if it is unable to obtain voluntary compliance
154 with the local fair housing law. The agency does ~~need~~ not have
155 to petition ~~petitioned~~ for an administrative hearing or exhaust
156 ~~exhausted~~ its administrative remedies before ~~prior to~~ bringing a
157 civil action. The court may impose fines as provided in the
158 local fair housing law.

159 Section 3. Section 760.35, Florida Statutes, is amended to
160 read:

161 760.35 Civil actions and relief; administrative
162 procedures.-

163 (1) An aggrieved person may commence a civil action ~~shall~~
164 ~~be commenced~~ no later than 2 years after an alleged
165 discriminatory housing practice has occurred. However, the court
166 shall continue a civil case brought under ~~pursuant to~~ this
167 section or s. 760.34 ~~from time to time~~ before bringing it to
168 trial if the court believes that the conciliation efforts of the
169 commission or local agency are likely to result in satisfactory
170 settlement of the discriminatory housing practice complained of
171 in the complaint made to the commission or to the local agency
172 and which practice forms the basis for the action in court. Any
173 sale, encumbrance, or rental consummated before ~~prior to~~ the
174 issuance of any court order issued under the authority of ss.

19-00605-20

2020374__

175 760.20-760.37 and involving a bona fide purchaser, encumbrancer,
176 or tenant without actual notice of the existence of the filing
177 of a complaint or civil action under ~~the provisions of~~ ss.
178 760.20-760.37 is ~~shall~~ not ~~be~~ affected.

179 (2) An aggrieved person may commence a civil action under
180 this section regardless of whether a complaint has been filed
181 under s. 760.34(1) and regardless of the status of any such
182 complaint. If the commission has obtained a conciliation
183 agreement with the consent of an aggrieved person under s.
184 760.36, the aggrieved person may not file any action under this
185 section regarding the alleged discriminatory housing practice
186 that forms the basis for the complaint except for the purpose of
187 enforcing the terms of the conciliation agreement.

188 (3) An aggrieved person may not commence a civil action
189 under this section regarding an alleged discriminatory housing
190 practice if an administrative law judge has commenced a hearing
191 on the record on the allegation.

192 (4)~~(2)~~ If the court finds that a discriminatory housing
193 practice has occurred, it shall issue an order prohibiting the
194 practice and providing affirmative relief from the effects of
195 the practice, including injunctive and other equitable relief,
196 actual and punitive damages, and reasonable attorney ~~attorney's~~
197 fees and costs.

198 (5) (a)~~(3) (a)~~ If the commission is unable to obtain
199 voluntary compliance with ss. 760.20-760.37 or has reasonable
200 cause to believe that a discriminatory practice has occurred:

201 1. The commission may institute an administrative
202 proceeding under chapter 120; or

203 2. The aggrieved person ~~aggrieved~~ may request

19-00605-20

2020374__

204 administrative relief under chapter 120 within 30 days after
205 receiving notice that the commission has concluded its
206 investigation under s. 760.34.

207 (b) Administrative hearings shall be conducted under
208 ~~pursuant to~~ ss. 120.569 and 120.57(1). The respondent must be
209 served written notice by certified mail. If the administrative
210 law judge finds that a discriminatory housing practice has
211 occurred or is about to occur, he or she shall issue a
212 recommended order to the commission prohibiting the practice and
213 recommending affirmative relief from the effects of the
214 practice, including quantifiable damages and reasonable attorney
215 ~~attorney's~~ fees and costs. The commission may adopt, reject, or
216 modify a recommended order only as provided under s. 120.57(1).
217 Judgment for the amount of damages and costs assessed pursuant
218 to a final order by the commission may be entered in any court
219 having jurisdiction thereof and may be enforced as any other
220 judgment.

221 (c) The district courts of appeal may, upon the filing of
222 appropriate notices of appeal, review final orders of the
223 commission under ~~pursuant to~~ s. 120.68. Costs or fees may not be
224 assessed against the commission in any appeal from a final order
225 issued by the commission under this subsection. Unless
226 specifically ordered by the court, the commencement of an appeal
227 does not suspend or stay an order of the commission.

228 (d) This subsection does not prevent any other legal or
229 administrative action provided by law.

230 Section 4. This act shall take effect upon becoming a law.