

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.