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1
2 An act relating to housing discrimination; creating s.
3 712.065, F.S.; defining the term "discriminatory
4 restriction"; providing that discriminatory
5 restrictions are unlawful, unenforceable, and declared
6 null and void; providing that certain discriminatory
7 restrictions are extinguished and severed from
8 recorded title transactions; specifying that the
9 recording of certain notices does not reimpose or
10 preserve a discriminatory restriction; providing
11 requirements for a parcel owner to remove a
12 discriminatory restriction from a covenant or
13 restriction; providing a directive to the Division of
14 Law Revision; amending s. 760.07, F.S.; removing
15 housing discrimination as a cause of action for
16 certain relief and damages stemming from violations of
17 the Florida Civil Rights Act of 1992; amending s.
18 760.34, F.S.; revising the conditions under which an
19 aggrieved person may commence a civil action in any
20 appropriate court against a specified respondent to
21 enforce specified rights; providing that the aggrieved
22 person does not need to pursue certain other remedies
23 before commencing a civil action; making technical
24 changes; amending s. 760.35, F.S.; authorizing, rather
25 than requiring, a civil action to commence within a
26 specified period after an alleged discriminatory
27 housing practice; authorizing an aggrieved person to
28 commence a civil action regardless of certain
29 circumstances; prohibiting an aggrieved person from

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30 filing a specified action in certain circumstances;
31 providing an exception; prohibiting an aggrieved
32 person from commencing a specified civil action if an
33 administrative law judge has commenced a hearing on
34 the record on the allegation; making technical
35 changes; providing an effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. Section 712.065, Florida Statutes, is created to
40 read:

41 712.065 Extinguishment of discriminatory restrictions.—

42 (1) As used in this section, the term "discriminatory
43 restriction" means a provision in a title transaction recorded
44 in this state which restricts the ownership, occupancy, or use
45 of any real property in this state by any natural person on the
46 basis of a characteristic that has been held, or is held after
47 the effective date of this act, by the United States Supreme
48 Court or the Florida Supreme Court to be protected against
49 discrimination under the Fourteenth Amendment to the United
50 States Constitution or under s. 2, Art. I of the State
51 Constitution, including race, color, national origin, religion,
52 gender, or physical disability.

53 (2) A discriminatory restriction is not enforceable in this
54 state, and all discriminatory restrictions contained in any
55 title transaction recorded in this state are unlawful, are
56 unenforceable, and are declared null and void. Any
57 discriminatory restriction contained in a previously recorded
58 title transaction is extinguished and severed from the recorded

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59 title transaction and the remainder of the title transaction
60 remains enforceable and effective. The recording of any notice
61 preserving or protecting interests or rights pursuant to s.
62 712.06 does not reimpose or preserve any discriminatory
63 restriction that is extinguished under this section.

64 (3) Upon request of a parcel owner, a discriminatory
65 restriction appearing in a covenant or restriction affecting the
66 parcel may be removed from the covenant or restriction by an
67 amendment approved by a majority vote of the board of directors
68 of the respective property owners' association or an owners'
69 association in which all owners may voluntarily join,
70 notwithstanding any other requirements for approval of an
71 amendment of the covenant or restriction. Unless the amendment
72 also changes other provisions of the covenant or restriction,
73 the recording of an amendment removing a discriminatory
74 restriction does not constitute a title transaction occurring
75 after the root of title for purposes of s. 712.03(4).

76 Section 2. The Division of Law Revision is directed to
77 replace the phrase "the effective date of this act" wherever it
78 occurs in this act with the date the act becomes a law.

79 Section 3. Section 760.07, Florida Statutes, is amended to
80 read:

81 760.07 Remedies for unlawful discrimination.—Any violation
82 of any Florida statute that makes ~~making~~ unlawful discrimination
83 because of race, color, religion, gender, pregnancy, national
84 origin, age, handicap, or marital status in the areas of
85 education, employment, ~~housing,~~ or public accommodations gives
86 rise to a cause of action for all relief and damages described
87 in s. 760.11(5), unless greater damages are expressly provided

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88 for. If the statute prohibiting unlawful discrimination provides
89 an administrative remedy, the action for equitable relief and
90 damages provided for in this section may be initiated only after
91 the plaintiff has exhausted his or her administrative remedy.
92 The term "public accommodations" does not include lodge halls or
93 other similar facilities of private organizations which are made
94 available for public use occasionally or periodically. The right
95 to trial by jury is preserved in any case in which the plaintiff
96 is seeking actual or punitive damages.

97 Section 4. Section 760.34, Florida Statutes, is amended to
98 read:

99 760.34 Enforcement.—

100 (1) Any person who claims to have been injured by a
101 discriminatory housing practice or who believes that he or she
102 will be injured by a discriminatory housing practice that is
103 about to occur may file a complaint with the commission.
104 Complaints shall be in writing and ~~shall~~ contain such
105 information and be in such form as the commission requires. Upon
106 receipt of such a complaint, the commission shall furnish a copy
107 to the person or persons who allegedly committed the
108 discriminatory housing practice or are about to commit the
109 alleged discriminatory housing practice. Within 100 days after
110 receiving a complaint, or within 100 days after the expiration
111 of any period of reference under subsection (3), the commission
112 shall investigate the complaint and give notice in writing to
113 the aggrieved person ~~aggrieved~~ whether it intends to resolve it.
114 If the commission decides to resolve the complaint, it shall
115 proceed to try to eliminate or correct the alleged
116 discriminatory housing practice by informal methods of

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117 conference, conciliation, and persuasion. Insofar as possible,
118 conciliation meetings shall be held in the cities or other
119 localities where the discriminatory housing practices allegedly
120 occurred. Nothing said or done in the course of such informal
121 endeavors may be made public or used as evidence in a subsequent
122 proceeding under ss. 760.20-760.37 without the written consent
123 of the persons concerned. Any employee of the commission who
124 makes public any information in violation of this provision is
125 guilty of a misdemeanor of the first degree, punishable as
126 provided in s. 775.082 or s. 775.083.

127 (2) Any person who files a complaint under subsection (1)
128 must do so ~~be filed~~ within 1 year after the alleged
129 discriminatory housing practice occurred. The complaint must be
130 in writing and shall state the facts upon which the allegations
131 of a discriminatory housing practice are based. A complaint may
132 be reasonably and fairly amended at any time. A respondent may
133 file an answer to the complaint against him or her and, with the
134 leave of the commission, which shall be granted whenever it
135 would be reasonable and fair to do so, may amend his or her
136 answer at any time. Both the complaint and the answer must ~~shall~~
137 be verified.

138 (3) If ~~Whenever~~ a local fair housing law provides rights
139 and remedies for alleged discriminatory housing practices which
140 are substantially equivalent to the rights and remedies provided
141 in ss. 760.20-760.37, the commission shall notify the
142 appropriate local agency of any complaint filed under ss.
143 760.20-760.37 which appears to constitute a violation of the
144 local fair housing law, and the commission shall take no further
145 action with respect to such complaint if the local law

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146 enforcement official has, within 30 days after ~~from~~ the date the
147 alleged offense was brought to his or her attention, commenced
148 proceedings in the matter. In no event shall the commission take
149 further action unless it certifies that in its judgment, under
150 the circumstances of the particular case, the protection of the
151 rights of the parties or the interests of justice require such
152 action.

153 ~~(4) If, within 180 days after a complaint is filed with the~~
154 ~~commission or within 180 days after expiration of any period of~~
155 ~~reference under subsection (3), the commission has been unable~~
156 ~~to obtain voluntary compliance with ss. 760.20-760.37, The~~
157 aggrieved person ~~aggrieved~~ may commence a civil action in any
158 appropriate court against the respondent named in the complaint
159 or petition for an administrative determination under ~~pursuant~~
160 ~~to~~ s. 760.35 to enforce the rights granted or protected by ss.
161 760.20-760.37 and is not required to petition for an
162 administrative hearing or exhaust administrative remedies before
163 commencing such action. If, as a result of its investigation
164 under subsection (1), the commission finds there is reasonable
165 cause to believe that a discriminatory housing practice has
166 occurred, at the request of the aggrieved person ~~aggrieved~~, the
167 Attorney General may bring an action in the name of the state on
168 behalf of the aggrieved person to enforce ~~the provisions of~~ ss.
169 760.20-760.37.

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

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

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175 compliance.

176 (7) (a) The commission may institute a civil action in any
177 appropriate court if it is unable to obtain voluntary compliance
178 with ss. 760.20-760.37. The commission does ~~need~~ not have to
179 petition ~~petitioned~~ for an administrative hearing or exhaust
180 ~~exhausted~~ its administrative remedies before ~~prior to~~ bringing a
181 civil action.

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

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

186 2. Up to \$25,000, if the respondent has been found guilty
187 of one prior violation of ss. 760.20-760.37 within the preceding
188 5 years.

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

192
193 In imposing a fine under this paragraph, the court shall
194 consider the nature and circumstances of the violation, the
195 degree of culpability, the history of prior violations of ss.
196 760.20-760.37, the financial circumstances of the respondent,
197 and the goal of deterring future violations of ss. 760.20-
198 760.37.

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

202 (8) Any local agency certified as substantially equivalent
203 may institute a civil action in any appropriate court, including

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204 circuit court, if it is unable to obtain voluntary compliance
205 with the local fair housing law. The agency does ~~need~~ not have
206 to petition ~~petitioned~~ for an administrative hearing or exhaust
207 ~~exhausted~~ its administrative remedies before ~~prior to~~ bringing a
208 civil action. The court may impose fines as provided in the
209 local fair housing law.

210 Section 5. Section 760.35, Florida Statutes, is amended to
211 read:

212 760.35 Civil actions and relief; administrative
213 procedures.—

214 (1) An aggrieved person may commence a civil action ~~shall~~
215 ~~be commenced~~ no later than 2 years after an alleged
216 discriminatory housing practice has occurred. However, the court
217 shall continue a civil case brought under ~~pursuant to~~ this
218 section or s. 760.34 ~~from time to time~~ before bringing it to
219 trial if the court believes that the conciliation efforts of the
220 commission or local agency are likely to result in satisfactory
221 settlement of the discriminatory housing practice complained of
222 in the complaint made to the commission or to the local agency
223 and which practice forms the basis for the action in court. Any
224 sale, encumbrance, or rental consummated before ~~prior to~~ the
225 issuance of any court order issued under the authority of ss.
226 760.20-760.37 and involving a bona fide purchaser, encumbrancer,
227 or tenant without actual notice of the existence of the filing
228 of a complaint or civil action under ~~the provisions of~~ ss.
229 760.20-760.37 is ~~shall~~ not ~~be~~ affected.

230 (2) An aggrieved person may commence a civil action under
231 this section regardless of whether a complaint has been filed
232 under s. 760.34(1) and regardless of the status of any such

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233 complaint. If the commission has obtained a conciliation
234 agreement with the consent of an aggrieved person under s.
235 760.36, the aggrieved person may not file any action under this
236 section regarding the alleged discriminatory housing practice
237 that forms the basis for the complaint except for the purpose of
238 enforcing the terms of the conciliation agreement.

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

243 (4)~~(2)~~ If the court finds that a discriminatory housing
244 practice has occurred, it shall issue an order prohibiting the
245 practice and providing affirmative relief from the effects of
246 the practice, including injunctive and other equitable relief,
247 actual and punitive damages, and reasonable attorney ~~attorney's~~
248 fees and costs.

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

252 1. The commission may institute an administrative
253 proceeding under chapter 120; or

254 2. The aggrieved person ~~aggrieved~~ may request
255 administrative relief under chapter 120 within 30 days after
256 receiving notice that the commission has concluded its
257 investigation under s. 760.34.

258 (b) Administrative hearings shall be conducted under
259 ~~pursuant to~~ ss. 120.569 and 120.57(1). The respondent must be
260 served written notice by certified mail. If the administrative
261 law judge finds that a discriminatory housing practice has

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262 occurred or is about to occur, he or she shall issue a
263 recommended order to the commission prohibiting the practice and
264 recommending affirmative relief from the effects of the
265 practice, including quantifiable damages and reasonable attorney
266 ~~attorney's~~ fees and costs. The commission may adopt, reject, or
267 modify a recommended order only as provided under s. 120.57(1).
268 Judgment for the amount of damages and costs assessed pursuant
269 to a final order by the commission may be entered in any court
270 having jurisdiction thereof and may be enforced as any other
271 judgment.

272 (c) The district courts of appeal may, upon the filing of
273 appropriate notices of appeal, review final orders of the
274 commission under ~~pursuant to~~ s. 120.68. Costs or fees may not be
275 assessed against the commission in any appeal from a final order
276 issued by the commission under this subsection. Unless
277 specifically ordered by the court, the commencement of an appeal
278 does not suspend or stay an order of the commission.

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

281 Section 6. This act shall take effect upon becoming a law.