

1 A bill to be entitled
2 An act relating to prohibited discrimination; creating
3 the "Florida Competitive Workforce Act"; amending s.
4 760.01, F.S.; revising provisions to include sexual
5 orientation and gender identity or expression and the
6 perception of race, color, religion, sex, national
7 origin, age, sexual orientation, gender identity or
8 expression, handicap, or marital status as
9 impermissible grounds for discrimination; reordering
10 and amending s. 760.02, F.S.; defining additional
11 terms; amending ss. 760.05, 760.07, and 760.08, F.S.;
12 adding sexual orientation and gender identity or
13 expression as impermissible grounds for
14 discrimination; conforming terminology; amending s.
15 760.10, F.S.; adding sexual orientation and gender
16 identity or expression as impermissible grounds for
17 discrimination; providing an exception for
18 constitutionally protected free exercise of religion;
19 amending s. 509.092, F.S.; adding sexual orientation
20 and gender identity or expression as impermissible
21 grounds for discrimination in public lodging
22 establishments and public food service establishments;
23 providing an exception for constitutionally protected
24 free exercise of religion; amending s. 760.22, F.S.;
25 defining additional terms; amending ss. 760.23,
26 760.24, 760.25, 760.26, 760.29, and 760.60, F.S.;
27 adding sexual orientation and gender identity or
28 expression as impermissible grounds for

29 discrimination; amending s. 419.001, F.S.; conforming
 30 a cross-reference; providing an effective date.

31

32 Be It Enacted by the Legislature of the State of Florida:

33

34 Section 1. This act may be cited as the "Florida
 35 Competitive Workforce Act."

36 Section 2. Subsection (2) of section 760.01, Florida
 37 Statutes, is amended to read:

38 760.01 Purposes; construction; title.—

39 (2) The general purposes of the Florida Civil Rights Act
 40 of 1992 are to secure for all individuals within the state
 41 freedom from discrimination because of or based on the
 42 perception of race, color, religion, sex, national origin, age,
 43 sexual orientation, gender identity or expression, handicap, or
 44 marital status and thereby to protect their interest in personal
 45 dignity, to make available to the state their full productive
 46 capacities, to secure the state against domestic strife and
 47 unrest, to preserve the public safety, health, and general
 48 welfare, and to promote the interests, rights, and privileges of
 49 individuals within the state.

50 Section 3. Section 760.02, Florida Statutes, is reordered
 51 and amended to read:

52 760.02 Definitions.—For the purposes of ss. 760.01–760.11
 53 and 509.092, the term:

54 (1)~~(10)~~ "Aggrieved person" means any person who files a
 55 complaint with the Human Relations Commission.

56 (2) "Commission" means the Florida Commission on Human
 57 Relations created by s. 760.03.

58 (3) "Commissioner" or "member" means a member of the
 59 commission.

60 (4) "Discriminatory practice" means any practice made
 61 unlawful by the Florida Civil Rights Act of 1992.

62 (5)~~(7)~~ "Employer" means any person employing 15 or more
 63 employees for each working day in each of 20 or more calendar
 64 weeks in the current or preceding calendar year, and any agent
 65 of such a person.

66 (6)~~(8)~~ "Employment agency" means any person regularly
 67 undertaking, with or without compensation, to procure employees
 68 for an employer or to procure for employees opportunities to
 69 work for an employer, and includes an agent of such a person.

70 (7)~~(1)~~ "Florida Civil Rights Act of 1992" means ss.
 71 760.01-760.11 and 509.092.

72 (8) "Gender identity or expression" means gender-related
 73 identity, appearance, expression, or behavior of an individual,
 74 regardless of the individual's assigned sex at birth.

75 (9) "Labor organization" means any organization which
 76 exists for the purpose, in whole or in part, of collective
 77 bargaining or of dealing with employers concerning grievances,
 78 terms or conditions of employment, or other mutual aid or
 79 protection in connection with employment.

80 (10)~~(5)~~ "National origin" includes ancestry.

81 (11)~~(6)~~ "Person" includes an individual, association,
 82 corporation, joint apprenticeship committee, joint-stock
 83 company, labor union, legal representative, mutual company,

84 partnership, receiver, trust, trustee in bankruptcy, or
85 unincorporated organization; any other legal or commercial
86 entity; the state; or any governmental entity or agency.

87 (12)~~(11)~~ "Public accommodations" means places of public
88 accommodation, lodgings, facilities principally engaged in
89 selling food for consumption on the premises, gasoline stations,
90 places of exhibition or entertainment, and other covered
91 establishments. Each of the following establishments which
92 serves the public is a place of public accommodation within the
93 meaning of this section:

94 (a) Any inn, hotel, motel, or other establishment that
95 ~~which~~ provides lodging to transient guests, other than an
96 establishment located within a building that ~~which~~ contains not
97 more than four rooms for rent or hire and that ~~which~~ is actually
98 occupied by the proprietor of such establishment as his or her
99 residence.

100 (b) Any restaurant, cafeteria, lunchroom, lunch counter,
101 soda fountain, or other facility principally engaged in selling
102 food for consumption on the premises, including, but not limited
103 to, any such facility located on the premises of any retail
104 establishment, or any gasoline station.

105 (c) Any motion picture theater, theater, concert hall,
106 sports arena, stadium, or other place of exhibition or
107 entertainment.

108 (d) Any establishment that ~~which~~ is physically located
109 within the premises of any establishment otherwise covered by
110 this subsection, or within the premises of which is physically

111 | located any such covered establishment, and which holds itself
 112 | out as serving patrons of such covered establishment.

113 | (13) "Sexual orientation" means an individual's actual or
 114 | perceived heterosexuality, homosexuality, or bisexuality.

115 | Section 4. Section 760.05, Florida Statutes, is amended to
 116 | read:

117 | 760.05 Functions of the commission.—The commission shall
 118 | promote and encourage fair treatment and equal opportunity for
 119 | all persons regardless of race, color, religion, sex, national
 120 | origin, age, sexual orientation, gender identity or expression,
 121 | handicap, or marital status and mutual understanding and respect
 122 | among all members of society ~~all economic, social, racial,~~
 123 | ~~religious, and ethnic groups;~~ and the commission shall endeavor
 124 | to eliminate discrimination against, and antagonism between,
 125 | persons on the basis of or based on the perception of race,
 126 | color, religion, sex, national origin, age, sexual orientation,
 127 | gender identity or expression, handicap, or marital status
 128 | ~~religious, racial, and ethnic groups and their members.~~

129 | Section 5. Section 760.07, Florida Statutes, is amended to
 130 | read:

131 | 760.07 Remedies for unlawful discrimination.—Any violation
 132 | of any Florida statute making unlawful discrimination because of
 133 | or based on the perception of race, color, religion, gender,
 134 | national origin, age, sexual orientation, gender identity or
 135 | expression, handicap, or marital status in the areas of
 136 | education, employment, housing, or public accommodations gives
 137 | rise to a cause of action for all relief and damages described
 138 | in s. 760.11(5), unless greater damages are expressly provided

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139 for. If the statute prohibiting unlawful discrimination provides
140 an administrative remedy, the action for equitable relief and
141 damages provided for in this section may be initiated only after
142 the plaintiff has exhausted his or her administrative remedy.
143 The term "public accommodations" does not include lodge halls or
144 other similar facilities of private organizations that ~~which~~ are
145 made available for public use occasionally or periodically. The
146 right to trial by jury is preserved in any case in which the
147 plaintiff is seeking actual or punitive damages.

148 Section 6. Section 760.08, Florida Statutes, is amended to
149 read:

150 760.08 Discrimination in places of public accommodation.—
151 All persons shall be entitled to the full and equal enjoyment of
152 the goods, services, facilities, privileges, advantages, and
153 accommodations of any place of public accommodation, as defined
154 in this chapter, without discrimination or segregation on the
155 ground of or based on the perception of race, color, national
156 origin, sex, sexual orientation, gender identity or expression,
157 handicap, familial status, or religion.

158 Section 7. Subsections (1) and (2), paragraphs (a) and (b)
159 of subsection (3), subsections (4), (5), and (6), paragraph (a)
160 of subsection (8), and subsection (9) of section 760.10, Florida
161 Statutes, are amended to read:

162 760.10 Unlawful employment practices.—

163 (1) It is an unlawful employment practice for an employer:

164 (a) To discharge or to fail or refuse to hire any
165 individual, or otherwise to discriminate against any individual
166 with respect to compensation, terms, conditions, or privileges

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167 of employment, because of or based on the perception of such
168 individual's race, color, religion, sex, national origin, age,
169 sexual orientation, gender identity or expression, handicap, or
170 marital status.

171 (b) To limit, segregate, or classify employees or
172 applicants for employment in any way which would deprive or tend
173 to deprive any individual of employment opportunities, or
174 adversely affect any individual's status as an employee, because
175 of or based on the perception of such individual's race, color,
176 religion, sex, national origin, age, sexual orientation, gender
177 identity or expression, handicap, or marital status.

178 (2) It is an unlawful employment practice for an
179 employment agency to fail or refuse to refer for employment, or
180 otherwise to discriminate against, any individual because of or
181 based on the perception of race, color, religion, sex, national
182 origin, age, sexual orientation, gender identity or expression,
183 handicap, or marital status or to classify or refer for
184 employment any individual on the basis of or based on the
185 perception of race, color, religion, sex, national origin, age,
186 sexual orientation, gender identity or expression, handicap, or
187 marital status.

188 (3) It is an unlawful employment practice for a labor
189 organization:

190 (a) To exclude or to expel from its membership, or
191 otherwise to discriminate against, any individual because of or
192 based on the perception of race, color, religion, sex, national
193 origin, age, sexual orientation, gender identity or expression,
194 handicap, or marital status.

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195 (b) To limit, segregate, or classify its membership or
196 applicants for membership, or to classify or fail or refuse to
197 refer for employment any individual, in any way which would
198 deprive or tend to deprive any individual of employment
199 opportunities, or adversely affect any individual's status as an
200 employee or as an applicant for employment, because of or based
201 on the perception of such individual's race, color, religion,
202 sex, national origin, age, sexual orientation, gender identity
203 or expression, handicap, or marital status.

204 (4) It is an unlawful employment practice for any
205 employer, labor organization, or joint labor-management
206 committee controlling apprenticeship or other training or
207 retraining, including on-the-job training programs, to
208 discriminate against any individual because of or based on the
209 perception of race, color, religion, sex, national origin, age,
210 sexual orientation, gender identity or expression, handicap, or
211 marital status in admission to, or employment in, any program
212 established to provide apprenticeship or other training.

213 (5) Whenever, in order to engage in a profession,
214 occupation, or trade, it is required that a person receive a
215 license, certification, or other credential, become a member or
216 an associate of any club, association, or other organization, or
217 pass any examination, it is an unlawful employment practice for
218 any person to discriminate against any other person seeking such
219 license, certification, or other credential, seeking to become a
220 member or associate of such club, association, or other
221 organization, or seeking to take or pass such examination,
222 because of or based on the perception of such other person's

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223 race, color, religion, sex, national origin, age, sexual
224 orientation, gender identity or expression handicap, or marital
225 status.

226 (6) It is an unlawful employment practice for an employer,
227 labor organization, employment agency, or joint labor-management
228 committee to print, or cause to be printed or published, any
229 notice or advertisement relating to employment, membership,
230 classification, referral for employment, or apprenticeship or
231 other training, indicating any preference, limitation,
232 specification, or discrimination, based on a person's actual or
233 perceived race, color, religion, sex, national origin, age,
234 sexual orientation, gender identity or expression, absence of
235 handicap, or marital status.

236 (8) Notwithstanding any other provision of this section,
237 it is not an unlawful employment practice under ss. 760.01-
238 760.10 for an employer, employment agency, labor organization,
239 or joint labor-management committee to:

240 (a) Take or fail to take any action on the basis of a
241 person's actual or perceived religion, sex, national origin,
242 age, sexual orientation, gender identity or expression,
243 handicap, or marital status in those certain instances in which
244 religion, sex, national origin, age, sexual orientation, gender
245 identity or expression, absence of a particular handicap, or
246 marital status is a bona fide occupational qualification
247 reasonably necessary for the performance of the particular
248 employment to which such action or inaction is related.

249 (9) (a) This section shall not apply to any religious
250 corporation, association, educational institution, or society

251 | which conditions opportunities in the area of employment or
 252 | public accommodation to members of that religious corporation,
 253 | association, educational institution, or society or to persons
 254 | who subscribe to its tenets or beliefs.

255 | **(b)** This section shall not prohibit a religious
 256 | corporation, association, educational institution, or society
 257 | from giving preference in employment to individuals of a
 258 | particular religion to perform work connected with the carrying
 259 | on by such corporations, associations, educational institutions,
 260 | or societies of its various activities.

261 | **(c)** This section and s. 760.08 shall not apply to limit
 262 | the free exercise of religion guaranteed by the United States
 263 | Constitution and the State Constitution.

264 | Section 8. Section 509.092, Florida Statutes, is amended
 265 | to read:

266 | 509.092 Public lodging establishments and public food
 267 | service establishments; rights as private enterprises.—

268 | **(1)** Public lodging establishments and public food service
 269 | establishments are private enterprises, and the operator has the
 270 | right to refuse accommodations or service to any person who is
 271 | objectionable or undesirable to the operator, but such refusal
 272 | may not be based upon the person's actual or perceived race,
 273 | creed, color, sex, physical disability, sexual orientation,
 274 | gender identity or expression, or national origin.

275 | **(2)** A person aggrieved by a violation of this section or
 276 | a violation of a rule adopted under this section has a right of
 277 | action pursuant to s. 760.11.

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278 (3) This section shall not limit the free exercise of
279 religion guaranteed by the United States Constitution and the
280 Florida Constitution.

281 Section 9. Section 760.22, Florida Statutes, is amended to
282 read:

283 760.22 Definitions.—As used in ss. 760.20-760.37, the
284 term:

285 (1) "Commission" means the Florida Commission on Human
286 Relations.

287 (2) "Covered multifamily dwelling" means:

288 (a) A building that ~~which~~ consists of four or more units
289 and has an elevator; or

290 (b) The ground floor units of a building that ~~which~~
291 consists of four or more units and does not have an elevator.

292 (3) "Discriminatory housing practice" means an act that is
293 unlawful under the terms of ss. 760.20-760.37.

294 (4) "Dwelling" means any building or structure, or portion
295 thereof, which is occupied as, or designed or intended for
296 occupancy as, a residence by one or more families, and any
297 vacant land that ~~which~~ is offered for sale or lease for the
298 construction or location on the land of any such building or
299 structure, or portion thereof.

300 (5) "Familial status" is established when an individual
301 who has not attained the age of 18 years is domiciled with:

302 (a) A parent or other person having legal custody of such
303 individual; or

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304 (b) A designee of a parent or other person having legal
305 custody, with the written permission of such parent or other
306 person.

307 (6) "Family" includes a single individual.

308 (7) "Gender identity or expression" has the same meaning
309 as provided in s. 760.02.

310 (8)~~(7)~~ "Handicap" means:

311 (a) A person has a physical or mental impairment which
312 substantially limits one or more major life activities, or he or
313 she has a record of having, or is regarded as having, such
314 physical or mental impairment; or

315 (b) A person has a developmental disability as defined in
316 s. 393.063.

317 (9)~~(8)~~ "Person" includes one or more individuals,
318 corporations, partnerships, associations, labor organizations,
319 legal representatives, mutual companies, joint-stock companies,
320 trusts, unincorporated organizations, trustees, trustees in
321 bankruptcy, receivers, and fiduciaries.

322 (10) "Sexual orientation" has the same meaning as provided
323 in s. 760.02.

324 (11)~~(9)~~ "Substantially equivalent" means an administrative
325 subdivision of the State of Florida meeting the requirements of
326 24 C.F.R. part 115, s. 115.6.

327 (12)~~(10)~~ "To rent" includes to lease, to sublease, to let,
328 and otherwise to grant for a consideration the right to occupy
329 premises not owned by the occupant.

330 Section 10. Subsections (1), (2), (3), (4), and (5) of
331 section 760.23, Florida Statutes, are amended to read:

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332 760.23 Discrimination in the sale or rental of housing and
333 other prohibited practices.—

334 (1) It is unlawful to refuse to sell or rent after the
335 making of a bona fide offer, to refuse to negotiate for the sale
336 or rental of, or otherwise to make unavailable or deny a
337 dwelling to any person because of or based on the perception of
338 race, color, national origin, sex, sexual orientation, gender
339 identity or expression, handicap, familial status, or religion.

340 (2) It is unlawful to discriminate against any person in
341 the terms, conditions, or privileges of sale or rental of a
342 dwelling, or in the provision of services or facilities in
343 connection therewith, because of or based on the perception of
344 race, color, national origin, sex, sexual orientation, gender
345 identity or expression, handicap, familial status, or religion.

346 (3) It is unlawful to make, print, or publish, or cause to
347 be made, printed, or published, any notice, statement, or
348 advertisement with respect to the sale or rental of a dwelling
349 that indicates any preference, limitation, or discrimination
350 based on a person's actual or perceived race, color, national
351 origin, sex, sexual orientation, gender identity or expression,
352 handicap, familial status, or religion or an intention to make
353 any such preference, limitation, or discrimination.

354 (4) It is unlawful to represent to any person because of
355 or based on the perception of the person's race, color, national
356 origin, sex, sexual orientation, gender identity or expression,
357 handicap, familial status, or religion that any dwelling is not
358 available for inspection, sale, or rental when such dwelling is
359 in fact so available.

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360 (5) It is unlawful, for profit, to induce or attempt to
361 induce any person to sell or rent any dwelling by a
362 representation regarding the entry or prospective entry into the
363 neighborhood of a person or persons of or perceived to be of a
364 particular race, color, national origin, sex, sexual
365 orientation, gender identity or expression, handicap, familial
366 status, or religion.

367 Section 11. Section 760.24, Florida Statutes, is amended
368 to read:

369 760.24 Discrimination in the provision of brokerage
370 services.—It is unlawful to deny any person access to, or
371 membership or participation in, any multiple-listing service,
372 real estate brokers' organization, or other service,
373 organization, or facility relating to the business of selling or
374 renting dwellings, or to discriminate against him or her in the
375 terms or conditions of such access, membership, or
376 participation, on account of or based on the perception of race,
377 color, national origin, sex, sexual orientation, gender identity
378 or expression, handicap, familial status, or religion.

379 Section 12. Subsection (1) and paragraph (a) of subsection
380 (2) of section 760.25, Florida Statutes, are amended to read:

381 760.25 Discrimination in the financing of housing or in
382 residential real estate transactions.—

383 (1) It is unlawful for any bank, building and loan
384 association, insurance company, or other corporation,
385 association, firm, or enterprise the business of which consists
386 in whole or in part of the making of commercial real estate
387 loans to deny a loan or other financial assistance to a person

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388 applying for the loan for the purpose of purchasing,
389 constructing, improving, repairing, or maintaining a dwelling,
390 or to discriminate against him or her in the fixing of the
391 amount, interest rate, duration, or other term or condition of
392 such loan or other financial assistance, because of or based on
393 the perception of the race, color, national origin, sex, sexual
394 orientation, gender identity or expression, handicap, familial
395 status, or religion of such person or of any person associated
396 with him or her in connection with such loan or other financial
397 assistance or the purposes of such loan or other financial
398 assistance, or because of or based on the perception of the
399 race, color, national origin, sex, sexual orientation, gender
400 identity or expression, handicap, familial status, or religion
401 of the present or prospective owners, lessees, tenants, or
402 occupants of the dwelling or dwellings in relation to which such
403 loan or other financial assistance is to be made or given.

404 (2) (a) It is unlawful for any person or entity whose
405 business includes engaging in residential real estate
406 transactions to discriminate against any person in making
407 available such a transaction, or in the terms or conditions of
408 such a transaction, because of or based on the perception of
409 race, color, national origin, sex, sexual orientation, gender
410 identity or expression, handicap, familial status, or religion.

411 Section 13. Section 760.26, Florida Statutes, is amended
412 to read:

413 760.26 Prohibited discrimination in land use decisions and
414 in permitting of development.—It is unlawful to discriminate in
415 land use decisions or in the permitting of development based on

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416 | a person's actual or perceived race, color, national origin,
417 | sex, sexual orientation, gender identity or expression,
418 | disability, familial status, religion, or, except as otherwise
419 | provided by law, the source of financing of a development or
420 | proposed development.

421 | Section 14. Paragraph (a) of subsection (5) of section
422 | 760.29, Florida Statutes, is amended to read:

423 | 760.29 Exemptions.—

424 | (5) Nothing in ss. 760.20-760.37:

425 | (a) Prohibits a person engaged in the business of
426 | furnishing appraisals of real property from taking into
427 | consideration factors other than race, color, national origin,
428 | sex, sexual orientation, gender identity or expression,
429 | handicap, familial status, or religion.

430 | Section 15. Subsection (1) of section 760.60, Florida
431 | Statutes, is amended to read:

432 | 760.60 Discriminatory practices of certain clubs
433 | prohibited; remedies.—

434 | (1) It is unlawful for a person to discriminate against
435 | any individual because of or based on the perception of race,
436 | color, religion, gender, national origin, handicap, age above
437 | the age of 21, sexual orientation, gender identity or
438 | expression, or marital status in evaluating an application for
439 | membership in a club that has more than 400 members, that
440 | provides regular meal service, and that regularly receives
441 | payment for dues, fees, use of space, facilities, services,
442 | meals, or beverages directly or indirectly from nonmembers for
443 | business purposes. It is unlawful for a person, on behalf of

444 such a club, to publish, circulate, issue, display, post, or
 445 mail any advertisement, notice, or solicitation that contains a
 446 statement to the effect that the accommodations, advantages,
 447 facilities, membership, or privileges of the club are denied to
 448 any individual because of or based on the perception of race,
 449 color, religion, gender, national origin, handicap, age above
 450 the age of 21, sexual orientation, gender identity or
 451 expression, or marital status. This subsection does not apply to
 452 fraternal or benevolent organizations, ethnic clubs, or
 453 religious organizations where business activity is not
 454 prevalent.

455 Section 16. Paragraph (e) of subsection (1) of section
 456 419.001, Florida Statutes, is amended to read:

457 419.001 Site selection of community residential homes.—

458 (1) For the purposes of this section, the term:

459 (e) "Resident" means any of the following: a frail elder
 460 as defined in s. 429.65; a person who has a handicap as defined
 461 in s. 760.22(8)(a) ~~760.22(7)(a)~~; a person who has a
 462 developmental disability as defined in s. 393.063; a
 463 nondangerous person who has a mental illness as defined in s.
 464 394.455; or a child who is found to be dependent as defined in
 465 s. 39.01 or s. 984.03, or a child in need of services as defined
 466 in s. 984.03 or s. 985.03.

467 Section 17. This act shall take effect July 1, 2014.