

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, or behavior, whether such gender-related
 74 identity, appearance, or behavior is different from that
 75 traditionally associated with the person's physiology or
 76 assigned sex at birth, which gender-related identity can be
 77 shown by providing evidence, including, but not limited to:

78 (a) Medical history, care, or treatment of the gender-
 79 related identity;

80 (b) Consistent and uniform assertion of the gender-related
 81 identity; or

82 (c) Other evidence that the gender-related identity is a
 83 sincerely held part of a person's core identity and is not being
 84 asserted for an improper purpose.

85 (9) "Labor organization" means any organization which
 86 exists for the purpose, in whole or in part, of collective
 87 bargaining or of dealing with employers concerning grievances,
 88 terms or conditions of employment, or other mutual aid or
 89 protection in connection with employment.

90 ~~(10)-(5)~~ "National origin" includes ancestry.

91 ~~(11)-(6)~~ "Person" includes an individual, association,
 92 corporation, joint apprenticeship committee, joint-stock
 93 company, labor union, legal representative, mutual company,
 94 partnership, receiver, trust, trustee in bankruptcy, or
 95 unincorporated organization; any other legal or commercial
 96 entity; the state; or any governmental entity or agency.

97 ~~(12)-(11)~~ "Public accommodations" means places of public
 98 accommodation, lodgings, facilities principally engaged in
 99 selling food for consumption on the premises, gasoline stations,
 100 places of exhibition or entertainment, and other covered
 101 establishments. Each of the following establishments which
 102 serves the public is a place of public accommodation within the
 103 meaning of this section:

104 (a) Any inn, hotel, motel, or other establishment that
 105 ~~which~~ provides lodging to transient guests, other than an
 106 establishment located within a building that ~~which~~ contains not
 107 more than four rooms for rent or hire and that ~~which~~ is actually
 108 occupied by the proprietor of such establishment as his or her
 109 residence.

110 (b) Any restaurant, cafeteria, lunchroom, lunch counter,
 111 soda fountain, or other facility principally engaged in selling
 112 food for consumption on the premises, including, but not limited
 113 to, any such facility located on the premises of any retail
 114 establishment, or any gasoline station.

115 (c) Any motion picture theater, theater, concert hall,
 116 sports arena, stadium, or other place of exhibition or
 117 entertainment.

118 (d) Any establishment that ~~which~~ is physically located
 119 within the premises of any establishment otherwise covered by
 120 this subsection, or within the premises of which is physically
 121 located any such covered establishment, and which holds itself
 122 out as serving patrons of such covered establishment.

123 (13) "Sexual orientation" means an individual's actual or
 124 perceived heterosexuality, homosexuality, or bisexuality.

125 Section 4. Section 760.05, Florida Statutes, is amended to
 126 read:

127 760.05 Functions of the commission.—The commission shall
 128 promote and encourage fair treatment and equal opportunity for
 129 all persons regardless of race, color, religion, sex, national

130 origin, age, sexual orientation, gender identity or expression,
 131 handicap, or marital status and mutual understanding and respect
 132 among all members of society ~~all economic, social, racial,~~
 133 ~~religious, and ethnic groups;~~ and the commission shall endeavor
 134 to eliminate discrimination against, and antagonism between,
 135 persons on the basis of or based on the perception of race,
 136 color, religion, sex, national origin, age, sexual orientation,
 137 gender identity or expression, handicap, or marital status
 138 ~~religious, racial, and ethnic groups and their members.~~

139 Section 5. Section 760.07, Florida Statutes, is amended to
 140 read:

141 760.07 Remedies for unlawful discrimination.—Any violation
 142 of any Florida statute making unlawful discrimination because of
 143 or based on the perception of race, color, religion, gender,
 144 national origin, age, sexual orientation, gender identity or
 145 expression, handicap, or marital status in the areas of
 146 education, employment, housing, or public accommodations gives
 147 rise to a cause of action for all relief and damages described
 148 in s. 760.11(5), unless greater damages are expressly provided
 149 for. If the statute prohibiting unlawful discrimination provides
 150 an administrative remedy, the action for equitable relief and
 151 damages provided for in this section may be initiated only after
 152 the plaintiff has exhausted his or her administrative remedy.
 153 The term "public accommodations" does not include lodge halls or
 154 other similar facilities of private organizations which are made
 155 available for public use occasionally or periodically. The right

156 to trial by jury is preserved in any case in which the plaintiff
157 is seeking actual or punitive damages.

158 Section 6. Section 760.08, Florida Statutes, is amended to
159 read:

160 760.08 Discrimination in places of public accommodation.—
161 All persons shall be entitled to the full and equal enjoyment of
162 the goods, services, facilities, privileges, advantages, and
163 accommodations of any place of public accommodation, as defined
164 in this chapter, without discrimination or segregation on the
165 ground of or based on the perception of race, color, national
166 origin, sex, sexual orientation, gender identity or expression,
167 handicap, familial status, or religion.

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

172 760.10 Unlawful employment practices.—

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

174 (a) To discharge or to fail or refuse to hire any
175 individual, or otherwise to discriminate against any individual
176 with respect to compensation, terms, conditions, or privileges
177 of employment, because of or based on the perception of such
178 individual's race, color, religion, sex, national origin, age,
179 sexual orientation, gender identity or expression, handicap, or
180 marital status.

181 (b) To limit, segregate, or classify employees or
182 applicants for employment in any way which would deprive or tend
183 to deprive any individual of employment opportunities, or
184 adversely affect any individual's status as an employee, because
185 of or based on the perception of such individual's race, color,
186 religion, sex, national origin, age, sexual orientation, gender
187 identity or expression, handicap, or marital status.

188 (2) It is an unlawful employment practice for an
189 employment agency to fail or refuse to refer for employment, or
190 otherwise to discriminate against, any individual because of or
191 based on the perception of race, color, religion, sex, national
192 origin, age, sexual orientation, gender identity or expression,
193 handicap, or marital status or to classify or refer for
194 employment any individual on the basis of or based on the
195 perception of race, color, religion, sex, national origin, age,
196 sexual orientation, gender identity or expression, handicap, or
197 marital status.

198 (3) It is an unlawful employment practice for a labor
199 organization:

200 (a) To exclude or to expel from its membership, or
201 otherwise to discriminate against, any individual because of or
202 based on the perception of race, color, religion, sex, national
203 origin, age, sexual orientation, gender identity or expression,
204 handicap, or marital status.

205 (b) To limit, segregate, or classify its membership or
206 applicants for membership, or to classify or fail or refuse to

207 refer for employment any individual, in any way that ~~which~~ would
208 deprive or tend to deprive any individual of employment
209 opportunities, or adversely affect any individual's status as an
210 employee or as an applicant for employment, because of or based
211 on the perception of such individual's race, color, religion,
212 sex, national origin, age, sexual orientation, gender identity
213 or expression, handicap, or marital status.

214 (4) It is an unlawful employment practice for any
215 employer, labor organization, or joint labor-management
216 committee controlling apprenticeship or other training or
217 retraining, including on-the-job training programs, to
218 discriminate against any individual because of or based on the
219 perception of race, color, religion, sex, national origin, age,
220 sexual orientation, gender identity or expression, handicap, or
221 marital status in admission to, or employment in, any program
222 established to provide apprenticeship or other training.

223 (5) Whenever, in order to engage in a profession,
224 occupation, or trade, it is required that a person receive a
225 license, certification, or other credential, become a member or
226 an associate of any club, association, or other organization, or
227 pass any examination, it is an unlawful employment practice for
228 any person to discriminate against any other person seeking such
229 license, certification, or other credential, seeking to become a
230 member or associate of such club, association, or other
231 organization, or seeking to take or pass such examination,
232 because of or based on the perception of such other person's

233 race, color, religion, sex, national origin, age, sexual
234 orientation, gender identity or expression handicap, or marital
235 status.

236 (6) It is an unlawful employment practice for an employer,
237 labor organization, employment agency, or joint labor-management
238 committee to print, or cause to be printed or published, any
239 notice or advertisement relating to employment, membership,
240 classification, referral for employment, or apprenticeship or
241 other training, indicating any preference, limitation,
242 specification, or discrimination, based on a person's actual or
243 perceived race, color, religion, sex, national origin, age,
244 sexual orientation, gender identity or expression, absence of
245 handicap, or marital status.

246 (8) Notwithstanding any other provision of this section,
247 it is not an unlawful employment practice under ss. 760.01-
248 760.10 for an employer, employment agency, labor organization,
249 or joint labor-management committee to:

250 (a) Take or fail to take any action on the basis of a
251 person's actual or perceived religion, sex, national origin,
252 age, sexual orientation, gender identity or expression,
253 handicap, or marital status in those certain instances in which
254 religion, sex, national origin, age, sexual orientation, gender
255 identity or expression, absence of a particular handicap, or
256 marital status is a bona fide occupational qualification
257 reasonably necessary for the performance of the particular
258 employment to which such action or inaction is related.

259 (9) (a) This section shall not apply to any religious
 260 corporation, association, educational institution, or society
 261 which conditions opportunities in the area of employment or
 262 public accommodation to members of that religious corporation,
 263 association, educational institution, or society or to persons
 264 who subscribe to its tenets or beliefs.

265 (b) This section shall not prohibit a religious
 266 corporation, association, educational institution, or society
 267 from giving preference in employment to individuals of a
 268 particular religion to perform work connected with the carrying
 269 on by such corporations, associations, educational institutions,
 270 or societies of its various activities.

271 (c) This section and s. 760.08 shall not apply to limit
 272 the free exercise of religion guaranteed by the United States
 273 Constitution and the State Constitution.

274 Section 8. Section 509.092, Florida Statutes, is amended
 275 to read:

276 509.092 Public lodging establishments and public food
 277 service establishments; rights as private enterprises.—

278 (1) Public lodging establishments and public food service
 279 establishments are private enterprises, and the operator has the
 280 right to refuse accommodations or service to any person who is
 281 objectionable or undesirable to the operator, but such refusal
 282 may not be based upon the person's actual or perceived race,
 283 creed, color, sex, physical disability, sexual orientation,
 284 gender identity or expression, or national origin.

285 (2) A person aggrieved by a violation of this section or a
 286 violation of a rule adopted under this section has a right of
 287 action pursuant to s. 760.11.

288 (3) This section shall not limit the free exercise of
 289 religion guaranteed by the United States Constitution and the
 290 Florida Constitution.

291 Section 9. Section 760.22, Florida Statutes, is amended to
 292 read:

293 760.22 Definitions.—As used in ss. 760.20–760.37, the
 294 term:

295 (1) "Commission" means the Florida Commission on Human
 296 Relations.

297 (2) "Covered multifamily dwelling" means:

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

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

302 (3) "Discriminatory housing practice" means an act that is
 303 unlawful under the terms of ss. 760.20–760.37.

304 (4) "Dwelling" means any building or structure, or portion
 305 thereof, which is occupied as, or designed or intended for
 306 occupancy as, a residence by one or more families, and any
 307 vacant land that ~~which~~ is offered for sale or lease for the
 308 construction or location on the land of any such building or
 309 structure, or portion thereof.

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

312 (a) A parent or other person having legal custody of such
313 individual; or

314 (b) A designee of a parent or other person having legal
315 custody, with the written permission of such parent or other
316 person.

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

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

320 (8)~~(7)~~ "Handicap" means:

321 (a) A person has a physical or mental impairment which
322 substantially limits one or more major life activities, or he or
323 she has a record of having, or is regarded as having, such
324 physical or mental impairment; or

325 (b) A person has a developmental disability as defined in
326 s. 393.063.

327 (9)~~(8)~~ "Person" includes one or more individuals,
328 corporations, partnerships, associations, labor organizations,
329 legal representatives, mutual companies, joint-stock companies,
330 trusts, unincorporated organizations, trustees, trustees in
331 bankruptcy, receivers, and fiduciaries.

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

334 ~~(11)-(9)~~ "Substantially equivalent" means an administrative
 335 subdivision of the State of Florida meeting the requirements of
 336 24 C.F.R. part 115, s. 115.6.

337 ~~(12)-(10)~~ "To rent" includes to lease, to sublease, to let,
 338 and otherwise to grant for a consideration the right to occupy
 339 premises not owned by the occupant.

340 Section 10. Subsections (1) through (5) of section 760.23,
 341 Florida Statutes, are amended to read:

342 760.23 Discrimination in the sale or rental of housing and
 343 other prohibited practices.—

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

350 (2) It is unlawful to discriminate against any person in
 351 the terms, conditions, or privileges of sale or rental of a
 352 dwelling, or in the provision of services or facilities in
 353 connection therewith, because of or based on the perception of
 354 race, color, national origin, sex, sexual orientation, gender
 355 identity or expression, handicap, familial status, or religion.

356 (3) It is unlawful to make, print, or publish, or cause to
 357 be made, printed, or published, any notice, statement, or
 358 advertisement with respect to the sale or rental of a dwelling
 359 that indicates any preference, limitation, or discrimination

360 based on a person's actual or perceived race, color, national
361 origin, sex, sexual orientation, gender identity or expression,
362 handicap, familial status, or religion or an intention to make
363 any such preference, limitation, or discrimination.

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

370 (5) It is unlawful, for profit, to induce or attempt to
371 induce any person to sell or rent any dwelling by a
372 representation regarding the entry or prospective entry into the
373 neighborhood of a person or persons of or perceived to be of a
374 particular race, color, national origin, sex, sexual
375 orientation, gender identity or expression, handicap, familial
376 status, or religion.

377 Section 11. Section 760.24, Florida Statutes, is amended
378 to read:

379 760.24 Discrimination in the provision of brokerage
380 services.—It is unlawful to deny any person access to, or
381 membership or participation in, any multiple-listing service,
382 real estate brokers' organization, or other service,
383 organization, or facility relating to the business of selling or
384 renting dwellings, or to discriminate against him or her in the
385 terms or conditions of such access, membership, or

386 participation, on account of or based on the perception of race,
387 color, national origin, sex, sexual orientation, gender identity
388 or expression, handicap, familial status, or religion.

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

391 760.25 Discrimination in the financing of housing or in
392 residential real estate transactions.—

393 (1) It is unlawful for any bank, building and loan
394 association, insurance company, or other corporation,
395 association, firm, or enterprise the business of which consists
396 in whole or in part of the making of commercial real estate
397 loans to deny a loan or other financial assistance to a person
398 applying for the loan for the purpose of purchasing,
399 constructing, improving, repairing, or maintaining a dwelling,
400 or to discriminate against him or her in the fixing of the
401 amount, interest rate, duration, or other term or condition of
402 such loan or other financial assistance, because of or based on
403 the perception of the race, color, national origin, sex, sexual
404 orientation, gender identity or expression, handicap, familial
405 status, or religion of such person or of any person associated
406 with him or her in connection with such loan or other financial
407 assistance or the purposes of such loan or other financial
408 assistance, or because of or based on the perception of the
409 race, color, national origin, sex, sexual orientation, gender
410 identity or expression, handicap, familial status, or religion
411 of the present or prospective owners, lessees, tenants, or

412 occupants of the dwelling or dwellings in relation to which such
 413 loan or other financial assistance is to be made or given.

414 (2) (a) It is unlawful for any person or entity whose
 415 business includes engaging in residential real estate
 416 transactions to discriminate against any person in making
 417 available such a transaction, or in the terms or conditions of
 418 such a transaction, because of or based on the perception of
 419 race, color, national origin, sex, sexual orientation, gender
 420 identity or expression, handicap, familial status, or religion.

421 Section 13. Section 760.26, Florida Statutes, is amended
 422 to read:

423 760.26 Prohibited discrimination in land use decisions and
 424 in permitting of development.—It is unlawful to discriminate in
 425 land use decisions or in the permitting of development based on
 426 a person's actual or perceived race, color, national origin,
 427 sex, sexual orientation, gender identity or expression,
 428 disability, familial status, religion, or, except as otherwise
 429 provided by law, the source of financing of a development or
 430 proposed development.

431 Section 14. Paragraph (a) of subsection (5) of section
 432 760.29, Florida Statutes, is amended to read:

433 760.29 Exemptions.—

434 (5) Nothing in ss. 760.20–760.37:

435 (a) Prohibits a person engaged in the business of
 436 furnishing appraisals of real property from taking into
 437 consideration factors other than race, color, national origin,

438 sex, sexual orientation, gender identity or expression,
439 handicap, familial status, or religion.

440 Section 15. Subsection (1) of section 760.60, Florida
441 Statutes, is amended to read:

442 760.60 Discriminatory practices of certain clubs
443 prohibited; remedies.—

444 (1) It is unlawful for a person to discriminate against
445 any individual because of or based on the perception of race,
446 color, religion, gender, national origin, handicap, age above
447 the age of 21, sexual orientation, gender identity or
448 expression, or marital status in evaluating an application for
449 membership in a club that has more than 400 members, that
450 provides regular meal service, and that regularly receives
451 payment for dues, fees, use of space, facilities, services,
452 meals, or beverages directly or indirectly from nonmembers for
453 business purposes. It is unlawful for a person, on behalf of
454 such a club, to publish, circulate, issue, display, post, or
455 mail any advertisement, notice, or solicitation that contains a
456 statement to the effect that the accommodations, advantages,
457 facilities, membership, or privileges of the club are denied to
458 any individual because of or based on the perception of race,
459 color, religion, gender, national origin, handicap, age above
460 the age of 21, sexual orientation, gender identity or
461 expression, or marital status. This subsection does not apply to
462 fraternal or benevolent organizations, ethnic clubs, or

463 religious organizations where business activity is not
464 prevalent.

465 Section 16. Paragraph (e) of subsection (1) of section
466 419.001, Florida Statutes, is amended to read:

467 419.001 Site selection of community residential homes.—

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

469 (e) "Resident" means any of the following: a frail elder
470 as defined in s. 429.65; a person who has a handicap as defined
471 in s. 760.22(8)(a) ~~760.22(7)(a)~~; a person who has a
472 developmental disability as defined in s. 393.063; a
473 nondangerous person who has a mental illness as defined in s.
474 394.455; or a child who is found to be dependent as defined in
475 s. 39.01 or s. 984.03, or a child in need of services as defined
476 in s. 984.03 or s. 985.03.

477 Section 17. This act shall take effect July 1, 2015.