

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; amending s. 760.35, F.S.;
13 authorizing, rather than requiring, a civil action to
14 commence within a specified period after an alleged
15 discriminatory housing practice; authorizing an
16 aggrieved person to commence a civil action regardless
17 of certain circumstances; prohibiting an aggrieved
18 person from filing a specified action in certain
19 circumstances; providing an exception; prohibiting an
20 aggrieved person from commencing a specified civil
21 action if an administrative law judge has commenced a
22 hearing on the record on the allegation; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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

29 760.07 Remedies for unlawful discrimination.—Any violation
30 of any Florida statute that makes ~~making~~ unlawful discrimination
31 because of race, color, religion, gender, pregnancy, national
32 origin, age, handicap, or marital status in the areas of
33 education, employment, ~~housing,~~ or public accommodations gives
34 rise to a cause of action for all relief and damages described
35 in s. 760.11(5), unless greater damages are expressly provided
36 for. If the statute prohibiting unlawful discrimination provides
37 an administrative remedy, the action for equitable relief and
38 damages provided for in this section may be initiated only after
39 the plaintiff has exhausted his or her administrative remedy.
40 The term "public accommodations" does not include lodge halls or
41 other similar facilities of private organizations which are made
42 available for public use occasionally or periodically. The right
43 to trial by jury is preserved in any case in which the plaintiff
44 is seeking actual or punitive damages.

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

47 760.34 Enforcement.—

48 (1) Any person who claims to have been injured by a
49 discriminatory housing practice or who believes that he or she
50 will be injured by a discriminatory housing practice that is

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

75 (2) Any person who files a complaint under subsection (1)

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

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

101 (4) ~~If, within 180 days after a complaint is filed with~~
102 ~~the commission or within 180 days after expiration of any period~~
103 ~~of reference under subsection (3), the commission has been~~
104 ~~unable to obtain voluntary compliance with ss. 760.20-760.37,~~
105 The aggrieved person ~~aggrieved~~ may commence a civil action in
106 any appropriate court against the respondent named in the
107 complaint or petition for an administrative determination under
108 ~~pursuant to~~ s. 760.35 to enforce the rights granted or protected
109 by ss. 760.20-760.37 and is not required to petition for an
110 administrative hearing or exhaust administrative remedies before
111 commencing such action. If, as a result of its investigation
112 under subsection (1), the commission finds there is reasonable
113 cause to believe that a discriminatory housing practice has
114 occurred, at the request of the aggrieved person ~~aggrieved~~, the
115 Attorney General may bring an action in the name of the state on
116 behalf of the aggrieved person to enforce ~~the provisions of~~ ss.
117 760.20-760.37.

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

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

124 (7) (a) The commission may institute a civil action in any
125 appropriate court if it is unable to obtain voluntary compliance

126 with ss. 760.20-760.37. The commission does ~~need~~ not have to
127 petition ~~petitioned~~ for an administrative hearing or exhaust
128 ~~exhausted~~ its administrative remedies before ~~prior to~~ bringing a
129 civil action.

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

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

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

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

140
141 In imposing a fine under this paragraph, the court shall
142 consider the nature and circumstances of the violation, the
143 degree of culpability, the history of prior violations of ss.
144 760.20-760.37, the financial circumstances of the respondent,
145 and the goal of deterring future violations of ss. 760.20-
146 760.37.

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

150 (8) Any local agency certified as substantially equivalent

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

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

160 760.35 Civil actions and relief; administrative
161 procedures.—

162 (1) An aggrieved person may commence a civil action ~~shall~~
163 ~~be commenced~~ no later than 2 years after an alleged
164 discriminatory housing practice has occurred. However, the court
165 shall continue a civil case brought under ~~pursuant to~~ this
166 section or s. 760.34 ~~from time to time~~ before bringing it to
167 trial if the court believes that the conciliation efforts of the
168 commission or local agency are likely to result in satisfactory
169 settlement of the discriminatory housing practice complained of
170 in the complaint made to the commission or to the local agency
171 and which practice forms the basis for the action in court. Any
172 sale, encumbrance, or rental consummated before ~~prior to~~ the
173 issuance of any court order issued under the authority of ss.
174 760.20-760.37 and involving a bona fide purchaser, encumbrancer,
175 or tenant without actual notice of the existence of the filing

176 of a complaint or civil action under ~~the provisions of~~ ss.
177 760.20-760.37 is ~~shall~~ not ~~be~~ affected.

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

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

191 (4) ~~(2)~~ If the court finds that a discriminatory housing
192 practice has occurred, it shall issue an order prohibiting the
193 practice and providing affirmative relief from the effects of
194 the practice, including injunctive and other equitable relief,
195 actual and punitive damages, and reasonable attorney ~~attorney's~~
196 fees and costs.

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

200 1. The commission may institute an administrative

201 proceeding under chapter 120; or

202 2. The aggrieved person ~~aggrieved~~ may request
203 administrative relief under chapter 120 within 30 days after
204 receiving notice that the commission has concluded its
205 investigation under s. 760.34.

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

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

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226 | does not suspend or stay an order of the commission.

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

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