

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

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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.

