

STORAGE NAME: h0019.lgv.doc

DATE: January 23, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS**

BILL #: HB 19

RELATING TO: Fair Housing Act

SPONSOR(S): Representative Greenstein

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS
 - (2) FISCAL POLICY & RESOURCES
 - (3) COUNCIL FOR SMARTER GOVERNMENT
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides that to qualify for the exemption from the Fair Housing Act with respect to familial status for housing for older persons, a facility or community must register with the Florida Commission on Human Relations (Commission) and submit an affidavit affirming compliance with specified requirements. The required registration and documentation must be renewed biennially. The information in the registry must be made available to the public, and the Commission must include this information on a website on the Internet. The bill authorizes the Commission to impose an administrative fine, not to exceed \$500, on a facility or community that knowingly submits false information.

The new responsibilities the bill assigns to the Commission have an indeterminate impact on the Commission's expenditures and workload. The bill authorizes the Commission to establish a reasonable registration fee, not to exceed \$20, to recoup these expenses. The bill has no fiscal impact on local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

As discussed in the "Effects of Proposed Changes" section, this bill places additional requirements on facilities and communities requesting an exemption from the Fair Housing Act with respect to familial status for housing for older persons. The bill also places additional responsibilities on the Florida Commission on Human Relations and provides for a registration fee.

B. PRESENT SITUATION:

Fair Housing Act

Chapter 760, Florida Statutes, relates to discrimination in the treatment of persons to minority representation. Part II of chapter 760, F.S., contains the provisions of the Florida Fair Housing Act (Act). The Act establishes the state's policy on fair housing; defines various terms; and prohibits discrimination based on race, color, national origin, sex, handicap, familial status, or religion in the sale or rental of housing, the provision of brokerage services, and the financing of housing or residential real estate transactions.

There are several exemptions to the act, including a "housing for older persons" exemption. Section 760.29(4)(a), F.S., exempts "housing for older persons" from the Act's anti-discrimination provisions relating to familial status. Section 760.21(5), F.S., provides "familial status" is established when an individual who has not attained the age of 18 years is domiciled with:

- (a) A parent or other person having legal custody of such individual; or
- (b) A designee of a parent or other person having legal custody, with the written permission of such parent or other person.

Communities, owners, or operators of "housing for older persons" may lawfully exclude from residency families with children under 18 years of age. Section 760.29(4)(b), F.S., defines "housing for older persons" as:

- 1. Housing provided under any state or federal program that the Florida Commission on Human Relations determines is specifically designed and operated to assist elderly persons;
- 2. Housing intended for, and solely occupied by, persons 62 years of age or older; and

3. Housing intended and operated for occupancy by persons 55 years of age or older that meets the following requirements:
 - a. At least 80 percent of the occupied units are occupied by at least one person 55 years of age or older.
 - b. The housing facility or community publishes and adheres to policies and procedures that demonstrate the housing is intended and operated for occupancy by persons 55 years of age or older.
 - c. The housing facility or community complies with certain federal rules.

To correct a situation where certain housing facilities or communities originally intended for housing for older persons could not qualify for consideration as housing for older persons, ch. 99-348, L.O.F., amended the act to provide that housing facilities and communities must be deemed housing for older persons intended and operated for occupancy by persons 55 years of age and older if the housing facilities or communities:

- Meet the 80 percent occupancy requirement and the federal verification requirements of ss. 760.29(4)(b)3. a. and c., F.S.;
- Provide for an adult, senior, or retirement housing facility or community in their recorded governing document; and
- Maintain governing documents that either (a) lack an amendatory procedure, (b) prohibit amendments, or (c) restrict amendments until a specified future date.

This act further provides that if such governing documents prohibit residents 16 years of age or younger, that provision must be construed to apply to residents 18 years of age or younger. Such construction is necessary to conform with federal requirements and for purposes of the Fair Housing Act. The act requires housing facilities and communities to amend governing documents, which can be amended at a future date, within one year of such future date, and properly record such amendment. Also, the amendment must reflect the existing requirements for consideration as housing for older persons, if that housing facility or community intends to continue as housing for older persons.

Section 760.29(4)(d), F.S., provides that a person shall not be personally liable for monetary damages for a violation of this subsection if such person reasonably relied in good faith on the application of the exemption under this subsection relating to housing for older persons. For purposes of this paragraph, a person may show good faith reliance on the application of the exemption only by showing that:

1. The person has no actual knowledge that the facility or the community is ineligible, or will become ineligible, for such exemption; and
2. The facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

C. EFFECT OF PROPOSED CHANGES:

This bill provides that to qualify for the exemption from the Fair Housing Act with respect to familial status for housing for older persons, a facility or community must register with the Florida

Commission on Human Relations (Commission) and submit an affidavit, or other document approved by the Commission, affirming compliance with specified requirements. The required registration and documentation must be renewed biennially. The bill declares that the registration and submission of an affidavit, or other document approved by the commission, shall not substitute for proof of compliance with the requirements of subsection s. 760.29(4), F.S.

The Commission must make the information in the registry available to the public and include the information on an Internet website. The bill authorizes the Commission to establish a reasonable registration fee, not to exceed \$20, to defray the administrative costs associated with maintaining the registry. The bill also authorizes the Commission to impose an administrative fine, not to exceed \$500, on a facility or community that knowingly submits false information.

The bill requires Commission rules to specify fee and the forms and procedures to be used for the registration required by this bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Paragraph (e) is added to subsection (4) of s. 760.29, F.S., to provide that in order to qualify for the "housing for older persons" exemption, a facility or community must register with the Commission and submit an affidavit, or other document approved by the Commission, stating that the facility or community complies with the requirements of paragraph (b)1., 2., or 3. The paragraph requires the affidavit be submitted on the letterhead of the facility or community or in some other form approved by the Commission and must be signed by the president of the facility or community. The required registration and documentation must be renewed biennially from the date of original filing. The information in the registry must be made available to the public, and the Commission must include this information on an Internet website. The paragraph authorizes the Commission to establish a reasonable registration fee, not to exceed \$20, that must be deposited into the Commission's trust fund to defray the administrative costs associated with maintaining the registry. The paragraph also authorizes the Commission to impose an administrative fine, not to exceed \$500, on a facility or community that knowingly submits false information. The paragraph declares that the registration and submission of an affidavit, or other document approved by the commission, shall not substitute for proof of compliance with the requirements of subsection (4).

Section 2. Subsection (5) of section 760.31, F.S., relating to powers and duties of the Commission, is amended to require Commission rules to specify the fee and the forms and procedures to be used for the registration required in s. 760.29(4)(e), F.S.

Section 3. An effective date of October 1, 2001, is provided. The section states that a facility or community that otherwise qualifies for the exemption provided in s. 760.29(4), F.S., shall have until February 1, 2002, to comply with the requirements of this act.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill authorizes the Commission to establish a reasonable registration fee, not to exceed \$20, that must be deposited into the Commission's trust fund to defray the administrative costs associated with maintaining the registry. The bill also authorizes the Commission to impose an administrative fine, not to exceed \$500, on a facility or community that knowingly submits false information.

2. Expenditures:

This bill places additional responsibilities on the Florida Commission on Human Relations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill has no direct impact on local government revenues.

2. Expenditures:

This bill has no direct impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires communities and facilities to register and submit a sworn affidavit to the Commission on a biennial basis in order to qualify for the housing for older persons exemption to the familial status provision of the Fair Housing Act. The bill also authorizes the Commission to establish a reasonable registration fee, not to exceed \$20, to defray the administrative costs associated with maintaining the registry.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

The bill requires Commission rules to specify the fee and the forms and procedures to be used for the registration required in s. 760.29(4)(e), F.S.

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C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

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Thomas L. Hamby, Jr.

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