

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 294

SPONSOR: Comprehensive Planning, Local and Military Affairs Committee and Senators Sanderson and Geller

SUBJECT: The Fair Housing Act

DATE: March 13, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bowman	Yeatman	CA	Favorable/CS
2.	_____	_____	JU	_____
3.	_____	_____	FT	_____
4.	_____	_____	AGG	_____
5.	_____	_____	AP	_____
6.	_____	_____	_____	_____

**I. Summary:**

This Committee Substitute (CS) provides that facilities claiming an exemption from the Fair Housing Act with respect to familial status for housing for older persons, shall register with the Florida Commission on Human Relations. In order to register, a facility or community must submit a letter to the Florida Commission on Human Relations on the letterhead of the facility or community, signed by the president of the facility or community stating 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 a registration fee not to exceed \$20 and to impose an administrative fine, not to exceed \$500, on a facility or community that knowingly submits false information.

This CS amends sections 760.29 and 760.31 of the Florida Statutes.

**II. Present Situation:**

Fair Housing Act

Chapter 760, F.S., relates to discrimination in the treatment of persons, and with 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 anti-discrimination provisions of the act relating to familial status. Section 760.22(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:

- (1) Meet the 80 percent occupancy requirement and the federal verification requirements of ss. 760.29(4)(b)3. a. and c., F.S.;
- (2) Provide for an adult, senior, or retirement housing facility or community in their recorded governing document; and
- (3) Maintain governing documents that (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.

### **III. Effect of Proposed Changes:**

The CS provides that facilities claiming an exemption from the Fair Housing Act with respect to familial status for housing for older persons, shall register with the Florida Commission on Human Relations. In order to register, a facility or community must submit a letter to the Florida Commission on Human Relations on the letterhead of the facility or community, signed by the president of the facility or community stating compliance with specified requirements. The required registration must be renewed biennially. The bill declares that the registration shall not substitute for proof of compliance with the requirements of subsection s. 760.29(4), F.S. In addition, failure to comply with the registration requirement does not disqualify a facility or community that otherwise qualifies for the exemption.

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

The effective date of the bill is October 1, 2001.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

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.

**B. Private Sector Impact:**

The bill requires communities and facilities to register with the Commission on a biennial basis regarding the eligibility of the community or facility with 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.

**C. Government Sector Impact:**

The Commission on will incur additional administrative costs as a result of implementing the requirements of the bill; however, these costs may be defrayed by registration fee revenue.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.