

COMMITTEE ON JUDICIARY
STAFF SUMMARY

CS HB 437 OTHER COMM. REFERENCE: _____
SPONSOR: Reps. Friedman & Abrams PREPARED BY: Robin Conner *RC*
SUBJECT: Fair Housing STAFF DIRECTOR: Richard Hixson *RH*
DATE: May 1, 1984

I. SUMMARY

A. Present Situation

The Florida Fair Housing Act, sections 760.20-760.37, Florida Statutes, was adopted in 1983 and prohibits discrimination in the sale or rental of housing on the basis of race, color, sex, religion, or national origin. The Act also prohibits discrimination in the provision of brokerage services, and in the financing of housing.

B. Effect of Proposed Changes

This bill would amend those sections of the Act which list the classifications for which discrimination is prohibited. The sections are amended to include "handicap".

As defined in the bill, handicap means: (1) a physical or mental impairment which substantially limits one or more major life activities; (2) a record of having a physical or mental impairment which substantially limits one or more major life activities; or (3) being regarded as having a physical or mental impairment which substantially limits one or more major life activities.

The bill provides that it shall not be unlawful for any person to deny or limit the rental of housing to persons who pose a real and present threat of substantial harm to others or to the housing itself.

The bill also states that nothing in the Act shall require any person renting or selling a dwelling to modify, alter, or adjust the dwelling in order to provide physical accessibility except as otherwise required by law.

II. FISCAL IMPACT

None.

III. COMMENTS

The Florida Statutes contain no general definition of "handicap". The term is defined in several chapters for purposes of those particular chapters.

IV. AMENDMENTS

This bill was made into a committee substitute to delete any references to mental impairment.

COMMITTEE ON JUDICIARY
STAFF SUMMARY

HB: 437

OTHER COMM. REFERENCE: _____

SPONSOR: Reps. Friedman & Abrams

PREPARED BY: Robin Conner *RC*

SUBJECT: Fair Housing

STAFF DIRECTOR: Richard Hixson *rh*

DATE: April 13, 1984

I. SUMMARY

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II. FISCAL IMPACT

None.

III. COMMENTS

The Florida Statutes contain no general definition of "handicap". The term is defined in several chapters for purposes of those particular chapters.

COMMITTEE ON JUDICIARY

HB 275
SPONSOR(S) Reps. Friedman, Pajcic
and others
SUBJECT: Fair Housing

OTHER COMM. REFERENCE: _____
PREPARED BY: Robin Conner *RC*
STAFF DIRECTOR Richard Hixson

I. SUMMARY:

A. Present Situation:

The Federal Fair Housing Act prohibits discrimination in the sale, rental, or financing of houses due to race, color, religion, sex, or national origin. The Act provides for exemptions for certain types of property. Those persons with a claim of discrimination against them may file a complaint with the Secretary of the Department of Housing and Urban Development. The Secretary must then investigate the complaint and give notice to the complainant whether he intends to resolve the complaint.

In those cases where a state or local fair housing law is substantially equivalent to the federal law, the federal government refers the complaint to the appropriate state or local agency for action. The federal government is authorized to support state and local agencies through a grant program which provides funding for all aspects of complaint processing and personnel training for first and second year agencies, with funding levels based on previous federal government complaint workloads. In the third and each succeeding year federal funding is available at a reduced level for complaint processing, with funding based on a set amount for each complaint that was filed in the prior year.

The federal government has formally recognized 29 states and 6 local governments (Broward County, Clearwater, Jacksonville, Miami, Orlando, and St. Petersburg) as having fair housing laws substantially equivalent to the federal law.

B. Probable Effect of Proposed Changes:

This bill creates the Fair Housing Act of Florida, and is substantially similar to the federal Fair Housing Act. The act prohibits discrimination in the sale, rental, or financing of housing due to race, color, religion, sex, or national origin. Exemptions are provided for certain types of property, including single-family houses provided that such private individual owner doesn't own more than three single-family houses at any one time. The Act describes certain discrimination practices which shall be unlawful.

Any person who is discriminated against may file a complaint with the Florida Commission on Human Relations; the act defines certain powers which the commission shall hold. The commission must investigate complaints and give notice to a complainant as to whether it intends to resolve the complaint.

If a determination is made to resolve the complaint, the commission is empowered only to attempt to eliminate or correct the alleged discriminatory practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding without the consent of the persons concerned. Penalties are provided for a violation of this provision.

In the event the informal methods fail to bring about voluntary compliance with the Act, the complainant may file a civil action in the appropriate court. If the court finds that a discriminatory housing practice has occurred, it may enjoin the respondent from engaging in such practice, or order such affirmative action as may be appropriate. The court may grant as relief any permanent or temporary injunction, temporary restraining order, actual damages, and not more than \$1000 punitive damages. The court may also award court costs and attorney's fees to a prevailing party.

The commission is required to make studies relating to discriminatory housing practices and publish reports, recommendations, and information derived from such studies.

In conducting an investigation, the commission shall have access at all reasonable times to premises, records, documents, individuals, and other evidence provided that the commission first complies with the provisions of the State Constitution relating to search and seizures. The commission may issue subpoenas to compel its access to or the production of such materials, or the appearance of such persons, and may issue interrogatories. Upon written application to the commission, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the commission. Witnesses summoned by subpoena of the commission shall be entitled to the same witness and mileage fees as are witnesses in proceedings in court. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him. The bill provides a method for revocation or modification of the subpoena. In case of refusal to obey a subpoena, it may be enforced in circuit court.

Complaints by aggrieved persons must be filed with the commission within 180 days of the alleged discrimination, and an investigation by the commission must be started within 30 days. The form of the complaint is provided. The commission shall refer a complaint to a local agency for further action if such agency provides substantially equivalent rights and remedies.

II. FISCAL IMPACT:

If Florida's Act is recognized by the federal government, the commission will be provided with approximately \$90,000 for each of the first two years of administration of the Act, to finance complaint processing and personnel training. This amount is based upon last year's federal complaint caseload of 80 cases in Florida.

In the third year of the program and each year thereafter, federal funding will be available at a rate of \$500 for each complaint that was filed the previous year, with a maximum of \$100,000 per year. According to the Commission's general counsel, who estimates the cost of each complaint at \$400 to \$500, state revenues will probably not be needed to supplement the federal funds to administer this law. No estimate has yet been reached as to the number of personnel necessary to administer the provisions of this act.

III. COMMENTS:

This staff report incorporates the analysis which was prepared by the Senate Judiciary-Civil Committee for CS/CS/SB 57, which is similar to HB 275.

A similar bill was introduced as HB in 1981. That bill died in the Committee on Judiciary.

IV. AMENDMENTS:

The bill was amended and made into a committee substitute which conforms the bill to the identical Senate companion. The purpose of the amendments was to bring this act within the explicit requirements of the Federal Fair Housing Act.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Ekholm</u>	<u>Burnside</u>	1. <u>ECCA</u>	<u>Fav/CS</u>
2. <u>Nelson/SPN</u>	<u>Alberdi</u>	2. <u>JCI</u>	<u>Fav/2 amend.</u>
3. _____	_____	3. _____	_____

SUBJECT:

Fair Housing Act

BILL NO. AND SPONSOR:

CS/SB 245 by
ECCA Committee, Senator Meek,
and Others

I. SUMMARY:

A. Present Situation:

The Florida Fair Housing Act, ss. 760.20-760.37, F.S., was adopted in 1983 and prohibits discrimination in the sale or rental of housing on the basis of race, color, religion, sex, or national origin. The act also prohibits discrimination in the provision of brokerage services and in the financing of housing.

Any person who is injured by a discriminatory housing practice may file a complaint with the Florida Commission on Human Relations and commence a civil action in court. When a complaint is filed with the commission, the commission must investigate the complaint and give notice to the complainant as to whether it intends to resolve the complaint (s. 760.34(1), F.S.). If a determination is made to resolve the complaint, the commission is empowered to attempt to eliminate or correct the alleged discriminatory practice by informal methods of conference, conciliation, and persuasion.

B. Effect of Proposed Changes:

CS/SB 245 would make it unlawful to engage in a discriminatory housing practice based on a person's handicap, in addition to race, color, religion, sex, or national origin. Handicap is defined as: a physical impairment that substantially limits one or more major life activities; a record of having such an impairment; or being regarded as having such an impairment.

It would not be unlawful to deny or limit the rental of housing to persons who pose a real and present threat of substantial harm to themselves, to others, or to the housing itself.

The bill specifies that nothing in the act would require any person who rents or sells a dwelling to modify, alter, or adjust the dwelling in order to provide physical accessibility except as otherwise required by law.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The federal Fair Housing Act of 1968, as amended, prohibits discrimination in the sale or rental of housing because of race, color, religion, sex, or national origin. Federal

funding is available to states to implement the provisions of fair housing laws which are substantially equivalent to the federal government's (see Comments below).

Since the federal law does not include handicap as a protected classification, the U.S. Department of Housing and Urban Development (HUD) indicates that investigation of complaints received regarding discrimination based on handicap would have to be funded by state government.

According to the General Counsel of the Florida Commission on Human Relations, the cost to the state to conduct investigations would be approximately \$500 per complaint. It is not possible, however, to predict the number of such complaints which might be filed.

III. COMMENTS:

Senate Bill 57, as originally proposed in 1983, contained a prohibition against housing discrimination based on handicap, but this provision was removed when CS/SB 57 was prepared.

When the state Fair Housing Act was passed in 1983, information obtained from the General Counsel of the Florida Commission on Human Relations was that the federal government would provide the commission with approximately \$84,000-\$91,000 in each of the first two years of administration to finance complaint processing and personnel training. This amount was based on the most recent year's federal complaint workload of 80 cases in Florida. Federal funding is to be available in the third year and beyond at a rate of \$500 for each complaint that was filed in the prior year and that alleged discrimination which is prohibited by federal law, up to a maximum of \$100,000 per year. According to the commission's general counsel, based on an estimated cost of \$400 to \$500 per complaint, state revenue would probably not be needed to supplement the federal funds to administer the law as passed in 1983.

Funding by the federal government is contingent on certification by HUD that the state law is substantially equivalent to federal law. The Commission on Human Relations' General Counsel indicates that no federal funding has been received thus far for administration of the state Fair Housing Act. A one-year trial period has been in effect, and procedures necessary to have the state law officially certified by the federal government have been undertaken by HUD. HUD cannot officially refer discrimination complaints it receives until federal funding is available to the state, and such funding is expected to become available in September or October 1984.

A similar bill, CS/HB 437, is on the Special Order Calendar in the House.

IV. AMENDMENTS:

#1 by Judiciary-Civil:

Removes exemption allowing persons to deny housing to persons who pose a threat of harm to themselves, others, or the housing itself. This exemption is not necessary since handicap is not defined to include mental impairment.

#2 by Judiciary-Civil:

Title amendment for amendment #1.

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