

CHAPTER 2020-76

Senate Bill No. 1084

An act relating to emotional support animals; creating s. 760.27, F.S.; defining the terms “emotional support animal” and “housing provider”; prohibiting discrimination in housing provided to a person with a disability or a disability-related need for an emotional support animal; specifying that such person may not be required to pay extra compensation for such animal; authorizing a housing provider to request specified information under certain circumstances; restricting such requests; specifying liability for owners of emotional support animals relating to damage done by their emotional support animals; providing applicability; amending s. 413.08, F.S.; providing applicability; amending s. 456.072, F.S.; prohibiting a health care practitioner from providing information regarding a person’s need for an emotional support animal without having personal knowledge of that person’s need for the animal; amending s. 760.22, F.S.; revising the definition of the term “handicap”; amending ss. 419.001, 760.23, 760.24, 760.25, 760.29, and 760.31, F.S.; replacing the term “handicap” with the term “disability,” to conform to changes made by the act; conforming provisions to changes made by the act; creating s. 817.265, F.S.; prohibiting the falsification of information or other fraudulent misrepresentation regarding the use of an emotional support animal; providing penalties; providing an effective date.

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

Section 1. Section 760.27, Florida Statutes, is created to read:

760.27 Prohibited discrimination in housing provided to persons with a disability or disability-related need for an emotional support animal.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Emotional support animal” means an animal that does not require training to do work, perform tasks, provide assistance, or provide therapeutic emotional support by virtue of its presence which alleviates one or more identified symptoms or effects of a person’s disability.

(b) “Housing provider” means any person or entity engaging in conduct covered by the federal Fair Housing Act or s. 504 of the Rehabilitation Act of 1973, including the owner or lessor of a dwelling.

(2) REASONABLE ACCOMMODATION REQUESTS.—To the extent required by federal law, rule, or regulation, it is unlawful to discriminate in the provision of housing to a person with a disability or disability-related need for, and who has or at any time obtains, an emotional support animal. A person with a disability or a disability-related need must, upon the person’s request and approval by a housing provider, be allowed to keep such animal

in his or her dwelling as a reasonable accommodation in housing, and such person may not be required to pay extra compensation for such animal. Unless otherwise prohibited by federal law, rule, or regulation, a housing provider may:

(a) Deny a reasonable accommodation request for an emotional support animal if such animal poses a direct threat to the safety or health of others or poses a direct threat of physical damage to the property of others, which threat cannot be reduced or eliminated by another reasonable accommodation.

(b) If a person's disability is not readily apparent, request reliable information that reasonably supports that the person has a disability. Supporting information may include:

1. A determination of disability from any federal, state, or local government agency.

2. Receipt of disability benefits or services from any federal, state, or local government agency.

3. Proof of eligibility for housing assistance or a housing voucher received because of a disability.

4. Information from a health care practitioner, as defined in s. 456.001; a telehealth provider, as defined in s. 456.47; or any other similarly licensed or certified practitioner or provider in good standing with his or her profession's regulatory body in another state but only if such out-of-state practitioner has provided in-person care or services to the tenant on at least one occasion. Such information is reliable if the practitioner or provider has personal knowledge of the person's disability and is acting within the scope of his or her practice to provide the supporting information.

5. Information from any other source that the housing provider reasonably determines to be reliable in accordance with the federal Fair Housing Act and s. 504 of the Rehabilitation Act of 1973.

(c) If a person's disability-related need for an emotional support animal is not readily apparent, request reliable information that reasonably supports the person's need for the particular emotional support animal being requested. Supporting information may include:

1. Information identifying the particular assistance or therapeutic emotional support provided by the specific animal from a health care practitioner, as defined in s. 456.001; a telehealth provider, as defined in s. 456.47; or any other similarly licensed or certified practitioner or provider in good standing with his or her profession's regulatory body in another state. Such information is reliable if the practitioner or provider has personal knowledge of the person's disability and is acting within the scope of his or her practice to provide the supporting information.

2. Information from any other source that the housing provider reasonably determines to be reliable in accordance with the federal Fair Housing Act and s. 504 of the Rehabilitation Act of 1973.

(d) If a person requests to keep more than one emotional support animal, request information regarding the specific need for each animal.

(e) Require proof of compliance with state and local requirements for licensing and vaccinating each emotional support animal.

(3) REQUEST LIMITATIONS.—

(a) Notwithstanding the authority to request information under subsection (2), a housing provider may not request information that discloses the diagnosis or severity of a person's disability or any medical records relating to the disability. However, a person may disclose such information or medical records to the housing provider at his or her discretion.

(b) A housing provider may develop and make available to persons a routine method for receiving and processing reasonable accommodation requests for emotional support animals; however, a housing provider may not require the use of a specific form or notarized statement, or deny a request solely because a person did not follow the housing provider's routine method.

(c) An emotional support animal registration of any kind, including, but not limited to, an identification card, patch, certificate, or similar registration obtained from the Internet is not, by itself, sufficient information to reliably establish that a person has a disability or a disability-related need for an emotional support animal.

(4) LIABILITY.—A person with a disability or a disability-related need is liable for any damage done to the premises or to another person on the premises by his or her emotional support animal.

(5) APPLICABILITY.—This section does not apply to a service animal as defined in s. 413.08.

Section 2. Paragraph (b) of subsection (6) of section 413.08, Florida Statutes, is amended to read:

413.08 Rights and responsibilities of an individual with a disability; use of a service animal; prohibited discrimination in public employment, public accommodations, and housing accommodations; penalties.—

(6) An individual with a disability is entitled to rent, lease, or purchase, as other members of the general public, any housing accommodations offered for rent, lease, or other compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.

(b) An individual with a disability who has a service animal or who obtains a service animal is entitled to full and equal access to all housing accommodations provided for in this section, and such individual a person may not be required to pay extra compensation for such animal. However, such individual a person is liable for any damage done to the premises or to another individual person on the premises by the animal. A housing accommodation may request proof of compliance with vaccination requirements. This paragraph does not apply to an emotional support animal as defined in s. 760.27.

Section 3. Paragraph (e) of subsection (1) of section 419.001, Florida Statutes, is amended to read:

419.001 Site selection of community residential homes.—

(1) For the purposes of this section, the term:

(e) “Resident” means any of the following: a frail elder as defined in s. 429.65; a person who has a disability handicap as defined in s. 760.22(3)(a) s. 760.22(7)(a); a person who has a developmental disability as defined in s. 393.063; a nondangerous person who has a mental illness as defined in s. 394.455; or a child who is found to be dependent as defined in s. 39.01 or s. 984.03, or a child in need of services as defined in s. 984.03 or s. 985.03.

Section 4. Paragraph (pp) is added to subsection (1) of section 456.072, Florida Statutes, to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(pp) Providing information, including written documentation, indicating that a person has a disability or supporting a person’s need for an emotional support animal under s. 760.27 without personal knowledge of the person’s disability or disability-related need for the specific emotional support animal.

Section 5. Present subsections (3) through (6) of section 760.22, Florida Statutes, are renumbered as subsections (4) through (7), respectively, and present subsection (7) of that section is amended, to read:

760.22 Definitions.—As used in ss. 760.20-760.37, the term:

(3)(7) “Disability” “Handicap” means:

(a) A person has a physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment; or

(b) A person has a developmental disability as defined in s. 393.063.

Section 6. Section 760.23, Florida Statutes, is amended to read:

760.23 Discrimination in the sale or rental of housing and other prohibited practices.—

(1) It is unlawful to refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, or otherwise to make unavailable or deny a dwelling to any person because of race, color, national origin, sex, disability ~~handicap~~, familial status, or religion.

(2) It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, sex, disability ~~handicap~~, familial status, or religion.

(3) It is unlawful to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, national origin, sex, disability ~~handicap~~, familial status, or religion or an intention to make any such preference, limitation, or discrimination.

(4) It is unlawful to represent to any person because of race, color, national origin, sex, disability ~~handicap~~, familial status, or religion that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) It is unlawful, for profit, to induce or attempt to induce any person to sell or rent any dwelling by a representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, national origin, sex, disability ~~handicap~~, familial status, or religion.

(6) The protections afforded under ss. 760.20-760.37 against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(7) It is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability ~~handicap~~ of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

(c) Any person associated with the buyer or renter.

(8) It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of

services or facilities in connection with such dwelling, because of a disability ~~handicap~~ of:

- (a) That buyer or renter;
- (b) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
- (c) Any person associated with the buyer or renter.
- (9) For purposes of subsections (7) and (8), discrimination includes:

- (a) A refusal to permit, at the expense of the ~~handicapped~~ person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; or

- (b) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

(10) Covered multifamily dwellings as defined herein which are intended for first occupancy after March 13, 1991, shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site as determined by commission rule. Such buildings shall also be designed and constructed in such a manner that:

- (a) The public use and common use portions of such dwellings are readily accessible to and usable by ~~handicapped~~ persons with disabilities.

- (b) All doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by a person in a wheelchair.

- (c) All premises within such dwellings contain the following features of adaptive design:

1. An accessible route into and through the dwelling.
2. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.
3. Reinforcements in bathroom walls to allow later installation of grab bars.
4. Usable kitchens and bathrooms such that a person in a wheelchair can maneuver about the space.

- (d) Compliance with the appropriate requirements of the American National Standards Institute for buildings and facilities providing accessibility and usability for persons with physical disabilities ~~physically~~

~~handicapped people~~, commonly cited as ANSI A117.1-1986, suffices to satisfy the requirements of paragraph (c).

State agencies with building construction regulation responsibility or local governments, as appropriate, shall review the plans and specifications for the construction of covered multifamily dwellings to determine consistency with the requirements of this subsection.

Section 7. Section 760.24, Florida Statutes, is amended to read:

760.24 Discrimination in the provision of brokerage services.—It is unlawful to deny any person access to, or membership or participation in, any multiple-listing service, real estate brokers’ organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership, or participation, on account of race, color, national origin, sex, disability handicap, familial status, or religion.

Section 8. Subsection (1) and paragraph (a) of subsection (2) of section 760.25, Florida Statutes, are amended to read:

760.25 Discrimination in the financing of housing or in residential real estate transactions.—

(1) It is unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise the business of which consists in whole or in part of the making of commercial real estate loans to deny a loan or other financial assistance to a person applying for the loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other term or condition of such loan or other financial assistance, because of the race, color, national origin, sex, disability handicap, familial status, or religion of such person or of any person associated with him or her in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or because of the race, color, national origin, sex, disability handicap, familial status, or religion of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

(2)(a) It is unlawful for any person or entity whose business includes engaging in residential real estate transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, national origin, sex, disability handicap, familial status, or religion.

Section 9. Paragraph (a) of subsection (1) and paragraph (a) of subsection (5) of section 760.29, Florida Statutes, are amended to read:

760.29 Exemptions.—

(1)(a) Nothing in ss. 760.23, ~~and 760.25, and 760.27~~ applies to:

1. Any single-family house sold or rented by its owner, provided such private individual owner does not own more than three single-family houses at any one time. In the case of the sale of a single-family house by a private individual owner who does not reside in such house at the time of the sale or who was not the most recent resident of the house prior to the sale, the exemption granted by this paragraph applies only with respect to one sale within any 24-month period. In addition, the bona fide private individual owner shall not own any interest in, nor shall there be owned or reserved on his or her behalf, under any express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of, more than three single-family houses at any one time. The sale or rental of any single-family house shall be excepted from the application of ss. 760.20-760.37 only if the house is sold or rented:

a. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate licensee or such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such licensee or person; and

b. Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of s. 760.23(3).

Nothing in this provision prohibits the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as is necessary to perfect or transfer the title.

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(5) Nothing in ss. 760.20-760.37:

(a) Prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, national origin, sex, disability ~~handicap~~, familial status, or religion.

Section 10. Subsection (5) of section 760.31, Florida Statutes, is amended to read:

760.31 Powers and duties of commission.—The commission shall:

(5) Adopt rules necessary to implement ss. 760.20-760.37 and govern the proceedings of the commission in accordance with chapter 120. Commission rules shall clarify terms used with regard to handicapped accessibility for persons with disabilities, exceptions from accessibility requirements based on terrain or site characteristics, and requirements related to housing for older persons. Commission rules shall specify the fee and the forms and procedures to be used for the registration required by s. 760.29(4)(e).

Section 11. Section 817.265, Florida Statutes, is created to read:

817.265 False or fraudulent proof of need for an emotional support animal.—A person who falsifies information or written documentation, or knowingly provides fraudulent information or written documentation, for an emotional support animal under s. 760.27, or otherwise knowingly and willfully misrepresents himself or herself, through his or her conduct or through a verbal or written notice, as having a disability or disability-related need for an emotional support animal or being otherwise qualified to use an emotional support animal, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. In addition, within 6 months after a conviction under this section, a person must perform 30 hours of community service for an organization that serves persons with disabilities or for another entity or organization that the court determines is appropriate.

Section 12. This act shall take effect July 1, 2020.

Approved by the Governor June 23, 2020.

Filed in Office Secretary of State June 23, 2020.