

PROPOSED

ORDINANCE NO. 2020-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE HUMAN RIGHTS ACT; AMENDING VARIOUS SECTIONS OF CHAPTER 16½ OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); PROVIDING FOR THE REMOVAL OF CERTAIN RELIGIOUS EXEMPTIONS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Commissioner Tim Ryan)

WHEREAS, while Title VII of the Civil Rights Act of 1964 permits religious organizations to make certain decisions on the basis of religion, it does not permit religious organizations to make those decisions on the basis of classifications otherwise protected by law, such as race, color, sex, sexual orientation, gender identity, and national origin; and

WHEREAS, the Broward County Board of County Commissioners finds it appropriate to amend the Human Rights Act to address religious exemptions under the Act in a way that is consistent with Title VII,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 16½-33.1 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 16½-33.1. Employment; exemptions.

(a) It is not a discriminatory practice:

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 ~~(1)~~ (a) For a religious corporation, association, or society to employ individuals of
2 a particular religion to perform work connected with the carrying on by the corporation,
3 association, or society of its religious activities.

4 ~~(2)~~ (b) For a religious education institution or organization owned, operated,
5 supervised, or controlled by a religious institution or organization to limit employment or
6 give preference to members of the same religion.

7 ~~(3)~~ (c) For an employer to employ, an employment agency or a labor organization
8 to classify or refer for employment, or a training committee controlling apprenticeship or
9 other training to admit or employ, an individual on the basis of religion, sex, national origin,
10 age, marital status, political affiliation, absence of disability, sexual orientation,
11 pregnancy, or gender identity or expression, where these qualifications are bona fide
12 occupational qualifications reasonably necessary to the normal operation of that particular
13 business or enterprise.

14 ~~(4)~~ (d) For an employer to apply different standards of compensation or different
15 terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit
16 system, to a system which measures earnings by quantity or quality of production, or to
17 employees who work in different locations, provided that such differences are not the
18 result of an intent to discriminate because of race, color, religion, sex, national origin, age,
19 disability, marital status, political affiliation, sexual orientation, pregnancy, or gender
20 identity or expression.

21 ~~(5)~~ (e) For an employer to give and to act upon the results of any
22 professionally-developed ability test, provided that such test, its administration, or action
23 upon the results, is not designed, intended, or used to discriminate because of race, color,
24

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1 religion, sex, national origin, age, disability, marital status, political affiliation, sexual
2 orientation, pregnancy, or gender identity or expression.

3 ~~(b) The provisions concerning employment discriminatory practices that relate~~
4 ~~to sexual orientation, or gender identity or expression, shall not apply to any religious~~
5 ~~school, religious institution, religious association, or religious organization.~~

6 Section 2. Section 16½-34 of the Broward County Code of Ordinances is
7 hereby amended to read as follows:

8 **Sec. 16½-34. Discriminatory practices in public accommodations.**

9 (a) It is unlawful for a person:

10 ~~(1)~~ (a) To deny, withhold, or refuse an individual or group the full and equal
11 enjoyment of the goods, services, facilities, privileges, advantages, and accommodations
12 of a place of public accommodation because of a discriminatory classification;

13 ~~(2)~~ (b) To interfere with the full and equal enjoyment of the goods, services,
14 facilities, privileges, advantages, and accommodations of a place of public
15 accommodation on the basis that an individual's patronage or presence is objectionable,
16 unwelcome, unacceptable, or undesirable because of a discriminatory classification;

17 ~~(3)~~ (c) To deny an individual or group the full and equal enjoyment of a place of
18 public accommodation by creating architectural barriers or limiting accessible parking; or

19 ~~(4)~~ (d) To discriminate against any individual because of a discriminatory
20 classification in evaluating an application for membership in a club that has more than
21 four hundred (400) members, that provides regular meal service, and that regularly
22 receives payment for dues, fees, use of space, facilities, services, meals, or beverages,
23 directly or indirectly, from nonmembers for business purposes. It is unlawful for a person,
24 on behalf of such a club, to publish, circulate, issue, display, post, or mail any

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1 advertisement, notice, or solicitation that contains a statement to the effect that the
2 accommodations, advantages, facilities, membership, or privileges of the club are denied
3 to any individual because of a discriminatory classification. This subsection does not
4 apply to fraternal or benevolent organizations, ethnic clubs, or religious organizations
5 where business activity is not prevalent.

6 ~~(b) The provisions of this section concerning discrimination in public~~
7 ~~accommodations that relate to sexual orientation or gender identity or expression shall~~
8 ~~not apply to any religious school, religious institution, religious association, or religious~~
9 ~~organization.~~

10 Section 3. Section 16½-35.4 of the Broward County Code of Ordinances is
11 hereby amended as follows:

12 **Sec. 16½-35.4. Exemptions; real estate transactions.**

13 . . .

14 ~~(c) The provisions of this Act concerning residential real estate transactions~~
15 ~~shall not apply to any religious school, religious institution, religious association, or~~
16 ~~religious organization when an allegation(s) of a discriminatory housing practice(s) is~~
17 ~~based upon sexual orientation or gender identity or expression.~~

18 Section 4. Severability.

19 If any portion of this Ordinance is determined by any court to be invalid, the invalid
20 portion will be stricken, and such striking will not affect the validity of the remainder of this
21 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
22 legally applied to any individual, group, entity, property, or circumstance, such
23 determination will not affect the applicability of this Ordinance to any other individual,
24 group, entity, property, or circumstance.

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1 Section 5. Inclusion in the Broward County Code of Ordinances.

2 It is the intention of the Board of County Commissioners that the provisions of this
3 Ordinance become part of the Broward County Code of Ordinances as of the effective
4 date. The sections of this Ordinance may be renumbered or relettered and the word
5 "ordinance" may be changed to "section," "article," or such other appropriate word or
6 phrase to the extent necessary in order to accomplish such intention.

7 Section 6. Effective Date.

8 This Ordinance is effective as of the date provided by law.

9
10 ENACTED

PROPOSED

11 FILED WITH THE DEPARTMENT OF STATE

12 EFFECTIVE

13
14 Approved as to form and legal sufficiency:
15 Andrew J. Meyers, County Attorney

16 By /s/ Adam M. Katzman 10/26/2020
17 Adam M. Katzman (date)
18 Senior Assistant County Attorney

19 By /s/ René D. Harrod 10/26/2020
20 René D. Harrod (date)
21 Deputy County Attorney

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23 AMK/jl
24 Human Rights Act Amendments Religion Ord
10/26/2020
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