



**FCRA WAGE PROJECT
CHAPTER 1: WHAT DOES THE LAW SAY?
[ALL-IN-ONE DOCUMENT]**

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FCRA WAGE PROJECT

CHAPTER: 1 WHAT DOES THE LAW SAY?

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ITEMS: A through M



1-0 | CHAPTER INTRO WHAT DOES THE LAW SAY?

- a. Where is the law regarding sex discrimination in employment in Florida found?
- b. To whom Does the FCRA apply?
- c. Under the FCRA, what is illegal?
- d. What is an "employer" this law?
- e. What is an "employee" under this law?
- f. Is there a federal law about sex discrimination?
- g. How Does the state law compare with federal in terms of coverage?
- h. Is it ever okay for my employer to treat or impact women differently because of their sex?
- i. What other employer exceptions exist under the FCRA?
- j. What could my employer do to deny my allegations, and how do I respond to their denials?
- k. Does it matter when the discrimination occurred?
- l. What options do I have if I my employer has fewer than fifteen employees?
- m. Who enforces the law?

(unknown authors)



1-A | WHERE IS THE LAW REGARDING SEX DISCRIMINATION IN EMPLOYMENT IN FLORIDA FOUND?

The Florida Civil Rights Act of 1992 (FCRA)¹ (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) is the controlling anti-discrimination law in the state of Florida.

(unknown authors)

Footnotes

¹ Fla. Stat. Ann. §§760.01-760.11 (West 2004)



1-B | TO WHOM DOES THE FCRA APPLY?

It applies to employers, employment agencies, labor unions, organizations controlling job training and apprenticeship, and licensing/certification organizations.²

It Does not apply to religious organizations, educational institutions, or societies in which employment opportunities are conditioned upon membership within the organization or agreement with its beliefs.³

(unknown authors)

Footnotes

² See generally §760.10.

³ Fla. Stat. Ann. §760.10(9).



1-C | UNDER THE FCRA, WHAT IS ILLEGAL?

It is unlawful to discharge, fail or refuse to hire, or discriminate in "compensation, terms, conditions, or privileges of employment" based on a person's race, color, religion, sex, national origin, handicap, or marital status. Segregating or classifying employees or job applicants in such a manner that would be detrimental to their employment status or opportunities is also unlawful.⁴

(unknown authors)

Footnotes

⁴ See generally Fla. Stat. Ann. §760.10.



1-D | WHAT IS AN "EMPLOYER" THIS LAW?

An employer is any person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year and any agent of such a person.⁵

(unknown authors)

Footnotes

⁵ Fla. Stat. Ann. §760.02(7).



1-E | WHAT IS AN "EMPLOYEE" UNDER THIS LAW?

An employee is not specifically defined under the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm), but anyone who feels that a violation of the law has been committed against them can file a complaint with the Florida Commission on Human Relations (see question m. below).⁶

(unknown authors)

Footnotes

⁶ Fla. Stat. Ann. §760.11(1).



1-F | IS THERE A FEDERAL LAW ABOUT SEX DISCRIMINATION?

Yes — Title VII of the Civil Rights Act of 1964.⁷ (see Federal Law section).

(unknown authors)

Footnotes

⁷ 42 U.S.C. §2000e.



1-G | HOW DOES THE STATE LAW COMPARE WITH FEDERAL IN TERMS OF COVERAGE?

The statute is based in large part on Title VII of the Civil Rights Act of 1964.⁸ The wording and provisions of the two laws are similar in many places, and both laws create administrative agencies to address claims brought under them. However, Title VII is considerably longer and has more specific procedural aspects. Furthermore, Title VII has a filing deadline of only 300 days, whereas the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) has a 365 day deadline.⁹

(unknown authors)

Footnotes

⁸ *Woodham v. Blue Cross and Blue Shield of Florida, Inc.*, 829 So. 2d 891, 895 (Fla. 2002).

⁹ Fla. Stat. Ann. §760.11(1).



1-H | IS IT EVER OKAY FOR MY EMPLOYER TO TREAT OR IMPACT WOMEN DIFFERENTLY BECAUSE OF THEIR SEX?

If a person's race, color, religion, sex, national origin, handicap, or marital status is a bona fide occupational qualification (BFOQ) "reasonably necessary for the performance of the particular employment" of the aggrieved person, it is not unlawful for the employer to take any action based on that characteristic.¹⁰

(unknown authors)

Footnotes

¹⁰ Fla. Stat. Ann. §760.10(8)(a).



1-I | WHAT OTHER EMPLOYER EXCEPTIONS EXIST UNDER THE FCRA?

Seniority systems, pensions, benefit plans, and “piece-rate” pay systems (in which an employee is paid by the quantity or quality of his/her work) may be used by an employer, as long as it is not designed to evade the Act’s purposes.¹¹ Discrimination on the basis of marital status is lawful if such status is prohibited by an anti-nepotism policy.¹²

(unknown authors)

Footnotes

¹¹ Fla. Stat. Ann. §760.10(8)(b).

¹² Fla. Stat. Ann. §760.10(8)(d).



1-J | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO THEIR DENIALS?

Because the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) is based on Title VII, Florida courts have ruled that the state legislature intended the two acts to be interpreted similarly.¹³ Thus, federal case law construing Title VII is binding on Florida courts.¹⁴ But the typical federal burden-shifting method is generally used: once you establish your case, your employer must state a legitimate, nondiscriminatory reason for your discharge. You must then prove that the reason your employer offers is a pretext for the real reason you were fired.¹⁵ See the Federal Law page for more details.

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Footnotes

¹³ *Russell v. KSL Hotel Corp.*, 887 So.2d 372, 377. (Fla. 3rd Dist. App. 2004)

¹⁴ See *Resley v. Ritz-Carlton Hotel Co.*, 989 F. Supp. 1442, 1446-1447 (M.D. Fla. 1997)

¹⁵ *Russell*, 887 So.2d at 379.



1-K | DOES IT MATTER WHEN THE DISCRIMINATION OCCURRED?

You must file a complaint within 365 days of the alleged violation.^{[16](#)}

(unknown authors)

Footnotes

¹⁶ Fla. Stat. Ann. §760.11(1).



1-L | WHAT OPTIONS DO I HAVE IF I MY EMPLOYER HAS FEWER THAN FIFTEEN EMPLOYEES?

While the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) only covers employers who have fifteen or more employees, some cities have ordinances which cover employers with fewer workers. (See the Local Ordinances section) ([link to Ideas For Change](#))

(unknown authors)

1-M | WHO ENFORCES THE LAW?

The Florida Commission on Human Relations (FCHR) (<http://fchr.state.fl.us/>) is responsible for enforcing the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm).¹⁷

(unknown authors)

Footnotes

¹⁷ Fla. Stat. Ann. §760.06 (5).



APPENDIX



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