

STORAGE NAME: h1693.tu
DATE: March 25, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TOURISM
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1693 (PCB TU 97-03)

RELATING TO: Public Lodging Establishments

SPONSOR(S): Committee on Tourism, Representative Barreiro and others

STATUTE(S) AFFECTED: Sections 509.215, and 509.242, Florida Statutes, 1996 Supplement,
and Section 553.895, Florida Statutes

COMPANION BILL(S): SB 2328 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TOURISM YEAS 8 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

House Bill 1693 revises provisions of Chapter 509, F.S., related to public lodging establishments. The definition for bed and breakfast inns is revised to distinguish this category of establishment from that of hotels and motels through reference to number of guests and rooms. A separate definition is also provided for home-stay inns that is based on guest numbers.

The bill revises firesafety requirements for home-stay inns by providing alternative sprinkler system standards required for licensure of such establishments. Additionally, the bill provides a 5 year compliance period for the 5 public lodging establishments which have not met the current firesafety code standards so that they might have the opportunity to qualify by utilizing the less stringent sprinkler system requirements.

The bill provides that the task force established to consider alternative fire protection and lifesafety support systems for historic public lodging establishments may use two recognized documents as guides in its deliberations. Finally, the bill deletes obsolete firesafety code language relating to public lodging establishments in s. 509.215, F.S., 1996 Supplement, and s. 553.895, F.S.

The bill does not have a fiscal impact to the State because Division of Hotels and Restaurants' administration of the current licensing practices is not altered.

This bill does not raise the current standards for fire safety code adherence for public lodging establishments and so should not cause a negative fiscal impact on the private sector.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 509, F.S., authorizes the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to regulate public lodging and public food service establishments. Such establishments must be annually inspected and licensed by the division. Definitions are provided in s. 509.013, F.S., 1996 Supplement, for what constitutes a public lodging establishment for the purposes of regulation and for a variety of potential public lodging occupants.

Public lodging establishments are defined in terms of how often they rent their units to guests who stay 30 days or less or if they promote themselves as regularly renting to guests. Guests are then described as any patron, customer, tenant, lodger, boarder, or occupant of a public lodging or food service establishment. The definitions for "public lodging establishment" and "guest" are interdependent. Although the definition of public lodging establishment mentions guests who stay for 30 days or less, there is no tie in the definition of a guest to any length of stay, even though the stay is in a public lodging establishment. The definitions of this section further describe a transient as a guest who intends for his/her occupancy to be temporary.

Section 509.013, F.S., 1996 Supplement, also provides exemptions for certain types of public lodging establishments. One exemption is for any place which rents 4 rental units or less, unless the establishment regularly promotes itself as regularly renting to guests. The phrase "regularly renting to guests" appears to assume that "guests" refers to those who only rent public lodging establishments for 30 days or less. The exemption provided in this section is intended to target establishments of this type which regularly rent units for less than a month at a time.

Section 509.242, F.S., 1996 Supplement, provides definitions describing the 8 categories of public lodging establishments. This section does provide a specific definition for those establishments commonly referred to as bed and breakfast inns.

Under Chapter 509, F.S., public lodging establishment buildings built after September 30, 1983, had to be equipped with a commercial grade NFPA No.13 fire sprinkler system and an approved NFPA-74 single-station smoke detector or smoke detector connected to a central alarm system which also alarms locally in each guest room, if it fell into one of two categories:

1. A building over 3 stories with interior corridors that do not have direct access from the guest area to an exterior means of egress.
2. A building over 75 feet high that has direct access from the guest area to an exterior means of egress.

Those public lodging establishments that were built before October 1, 1983, had to have a system that complied with the above requirements or were allowed to have an approved sprinkler system for specific areas other than individual guest rooms which included all interior corridors, public areas, storage rooms, closets, kitchen areas, and laundry rooms, if certain conditions were met. These conditions are written as inclusive and require that:

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1. There is a minimum 1-hour separation between each guest room and between each guest room and a corridor.
2. The building is constructed of noncombustible materials.
3. The egress conditions such as standard stair widths, hand rails, stair enclosures and use of fire resistant materials could reasonably meet the standards set by s. 5-3 of the Life Safety Code, NFPA 101.
4. The building has a complete automatic fire detection system designed to have a separate smoke detector in each guest room that can individually alert a continuously manned control panel. The system must meet NFPA requirements described in publications 72A and 72E.

Those public lodging establishments in which 50 percent or more of the units in the building are advertised or held out to the public as available for transient occupancy were required to meet the appropriate requirements under these two categories and were given successive deadlines during which the above provisions had to be adhered to for licensure. Between January 1, 1984, and January 1, 1994, the Department of Business and Professional Regulation licensed public lodging establishments based on their applicable compliance with either the total building sprinkler system and guest room smoke alarm requirements in s. 509.215(1), F.S., or the partial building sprinkler system and guest room alarm requirements in s. 509.215(2), F.S. The final deadline was reached on December 31, 1993.

In consideration of the approaching deadline, the Legislature during the 1993 Regular Session amended the building construction standards under s. 553.895, F.S., to require that all buildings, regardless of occupancy status, of 3 stories or more built after the 1993 deadline, except single-family and two-family dwellings, be equipped with an automatic sprinkler system that meets the requirements of statutorily prescribed fire prevention and control measures under Chapter 633, F.S. Section 553.895, F.S., references and includes any building subject to the public lodging establishment provisions of s. 509.215, F.S., 1996 Supplement.

In 1994, there was a provision under s. 509.215, F.S., which authorized a special exception to the provisions of s. 509.215, F.S., to be made for hotel structures that met certain historical designations. Provisions were to be made for such structures for a system of fire protection and lifesafety support that would meet the intent of the NFPA standards and be acceptable to and approved by a commission composed of the director of the Division of Hotels and Restaurants (of DBPR), the director of the Division of State Fire Marshal (Department of Insurance), and the State Historic Preservation Officer (Department of State).

The Division of Hotels and Restaurants began to issue enforcement sanctions against those establishments which were not in compliance with the provisions of s. 509.215, F.S., in 1994, asking them to show cause as to why their licenses should not be fined, suspended or revoked for noncompliance with the statute. When requested, the commission described under subsection (6) of s. 509.215, F.S., met and recommended alternative sprinkler system designs which would not disrupt the historic integrity of the building but would still meet the statutory firesafety code standards.

Between the effective date of the law and the latter part of 1995, five establishments were identified as not being in compliance with the statutes. In December of 1995, a short form bill was filed by Representative Albright which was intended to establish alternative fire safety requirements for historic hotels and bed and breakfast inns under the exception provision in s. 509.215(6), F.S. Language for the short form bill was not developed during the 1996 Regular Session; however, a provision was enacted in Chapter 96-384, L.O.F., which provided a specific definition for bed and breakfast inns under s. 509.242, F.S. The special exception provision was extended to all historic public lodging establishments so that the term would include bed and breakfast inns. The description of "historic" establishments in this provision encompassed not only specifically designated buildings, but also those that are considered properties which contribute to a historic district.

Additionally, Chapter 96-384, L.O.F., reestablished the "commission" named in s. 509.215, F.S., as a "task force" comprised of the same division directors. This task force was required to meet in a timely fashion to review and recommend alternative fire safety systems for historic public lodging facilities. The task force was also required to report to the Legislature by November 1, 1996, on any legislative recommendations it may have for providing a standard system of fire protection and life safety support alternatives for historic public lodging establishments. Any system recommended by the task force was still required to meet the intent of the NFPA standards. The task force did meet and did present a report to the Legislature which included alternative recommendations for historic public lodging facilities. The five noncompliant public lodging establishments have been licensed by the Division of Hotels and Restaurants pending the recommendations of the task force and ultimately the subsequent actions of the Legislature.

In its report, the task force recommended the adoption of specified alternative sprinkler system standards for licensure of bed and breakfast inns and home-stay inns. Also, the task force recommended that its future deliberations on alternative fire protection and lifesafety support systems for historic public lodging establishments be guided by the "Historic Building Standard-Chapter 1000" and the "Recommended Practices for Fire Protection in Rehabilitation and Adaptive Rescue for Historic Structures" (NFPA 914). Because much of the language in s. 509.215, F.S., 1996 Supplement, related to fire safety standards which had to have been met by January 1, 1994, the task force recommendations also included deleting the obsolete language.

Since the July 1, 1996 effective date of Chapter 96-384, L.O.F., the Division of Hotels and Restaurants reports that it has licensed 193 bed and breakfast inns and that only the 5 have not complied with firesafety requirements. The division also notes that there may be a false perception of how many bed and breakfast inns exist in Florida because a number of establishments which are currently licensed and inspected as non-transient roominghouses have been advertising as bed and breakfasts in order to take advantage of this trendy name.

B. EFFECT OF PROPOSED CHANGES:

House Bill 1693 revises provisions in Chapters 509 and 553, F.S., related to public lodging establishments. The definition for "bed and breakfast inns" is revised to distinguish this category of establishment from that of hotels and motels. The hotel category refers to establishments which have 25 or more guests and motels are

categorized as having 6 rooms or more. This bill provides that "bed and breakfasts" be defined as having accommodations for no more than 24 guests and having no more than 12 sleeping rooms. A separate definition is also provided for "home-stay inns" that is based on guest numbers and its existence as a family home structure. These two classifications are also distinguished from the classification for roominghouses under Chapter 509, F.S., because they generally make their accommodations available to guests in transient occupancy.

The bill revises firesafety requirements for certain home-stay inns by providing alternative sprinkler system standards for such establishments that are less stringent than the commercial sprinkler standard that is currently required. Additionally, the bill provides a 5 year compliance period for the 5 public lodging establishments which have not met the current firesafety code standards so that they might have the opportunity to qualify by utilizing the less stringent sprinkler requirements.

The bill provides that the task force established to consider alternative fire protection and lifesafety support systems for historic public lodging establishments may use two recognized documents as guides in its deliberations. Finally, the bill deletes obsolete firesafety code language relating to public lodging establishments in s. 509.215, F.S., 1996 Supplement, and s. 553.895, F.S.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. House Bill 1693 provides for less stringent fire safety sprinkler system alternatives for certain public lodging establishments. The bill also allows 5 currently licensed public lodging establishments which have not met compliance standards to have an additional 5 years in which to come into compliance.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 509.215, F.S., 1996 Supplement, providing that all new (built after January 1, 1994) public lodging establishments, regardless of occupancy status, of 3 stories or more must be equipped with an approved automatic sprinkler system installed in compliance with the provisions of Chapter 633, F.S., which establishes Florida's fire prevention and control standards. This section maintains the alternative sprinkler and smoke alarm system provisions allowed for certain 3 story and 75 feet or less structures built before the January 1, 1994, deadline. Obsolete language in s. 509.215, F.S., 1996 Supplement, which provides a series of compliance deadlines for public lodging establishments to meet the firesafety code provisions is deleted. This amendatory language conforms the public lodging firesafety code provisions in s. 509.215, F.S., 1996 Supplement, with similar provisions in Chapter 553, F.S., which establishes Florida's building code.

Subsection (6) of s. 509.215, F.S., 1996 Supplement, is renumbered as (4) and revised to clarify that special firesafety code [sprinkler and alarm] system considerations may be made for historic public lodging establishments if they meet the NFPA standards and are approved by the task force established to evaluate such issues. The task force may make use of two recognized documents, "Historic Building Standard-Chapter 1000," and NFPA 914, "Recommended Practices for Fire Protection in Rehabilitation and Adaptive Rescue for Historic Structures," as guides for evaluating alternative systems for historic public lodging establishments. The obsolete language in newly numbered subsection (4) which requires the task force to report to the Legislature on these alternative systems by November 1, 1996, is deleted.

Subsection (8) is added to s. 509.215, F.S., 1996 Supplement, to provide for the use of alternative firesafety code standards starting for home-stay inns of no more than 3 stories, starting January 1, 1998. Home-stay inns of 3 stories or less which restricted their guest rooms to the first 2 stories would be authorized to use the NFPA's "Life Safety Code," NFPA 101, 1994 edition, Chapter 21 (1 and 2 family dwelling) provisions as their firesafety standards to qualify for licensure under Chapter 509, F.S. These

provisions authorize the use of the 13-R or 13-D sprinkler systems which are less intrusive and potentially less expensive than the currently required commercial grade, 13 system.

Finally, this section provides a 5 year compliance period for the 5 public lodging establishments which have not met the current firesafety code standards so that they might have the opportunity to qualify by utilizing the less stringent sprinkler system requirements.

Section 2 amends s. 509.242, F.S., 1996 Supplement, by providing that the classifications for public lodging establishments contained in this section are to be used for the purpose of licensure only. This section revises the accommodations qualifier in the definition for bed and breakfast inns to reference the number of guests (24 or fewer) and the number of rooms (no more than 12) in order to distinguish this category of public lodging establishment from that of hotels or motels.

This section also provides a definition for home-stay inns describing such an entity as a family home structure with sleeping accommodations for 5 or fewer guests in guest rooms that are limited to first or second stories only. This definition further provides a generally accepted practices type description for home-stay inns.

Section 3 amends s. 553.895, F.S., to delete obsolete language.

Section 4 provides that this act will take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None that are not already required.

2. Direct Private Sector Benefits:

Those 5 public lodging establishments which have 5 years to come into compliance with fire safety standards for licensure may be able to utilize a less stringent and potentially less expensive sprinkler system.

3. Effects on Competition, Private Enterprise and Employment Markets:

Certain public lodging establishments may be able to come into licensure compliance by utilizing the less stringent and potentially less expensive sprinkler systems thereby retaining their competitiveness in the market.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

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C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Legislative Research Director:

Susan F. Cutchins

Judy C. McDonald