

By Senator Dyer

14-1502-98

See HB

1 A bill to be entitled
 2 An act relating to affordable residential
 3 accommodations establishments; creating ss.
 4 510.011, 510.013, 510.021, 510.032, 510.033,
 5 510.034, 510.036, 510.037, 510.038, 510.041,
 6 510.042, 510.101, 510.105, 510.111, 510.121,
 7 510.122, 510.123, 510.131, 510.132, 510.133,
 8 510.134, 510.136, 510.138, 510.141, 510.142,
 9 510.143, 510.151, 510.161, 510.162, 510.191,
 10 510.201, 510.211, 510.212, 510.215, 510.221,
 11 510.241, 510.245, 510.247, 510.251, 510.261,
 12 510.262, 510.265, 510.281, 510.282, 510.285,
 13 510.401, 510.402, 510.403, 510.404, 510.405,
 14 510.406, 510.407, 510.408, 510.409, 510.411,
 15 510.412, 510.413, 510.414, 510.415, 510.416,
 16 and 510.417, F.S.; providing a short title;
 17 providing definitions; providing application;
 18 providing duties of the Department of Children
 19 and Family Services; providing for
 20 nondiscrimination; providing for form and
 21 service of notices; providing for a right of
 22 entry; specifying the relationship of resident
 23 and proprietor; specifying certain rights;
 24 providing for rules; providing for variances;
 25 providing penalties; providing for state
 26 preemption; providing for establishment of
 27 certain rules; providing for notice; requiring
 28 maintenance of a register; specifying an
 29 obligation of good faith; providing for
 30 disclosure; providing for rent; providing for
 31 duration of tenancies; providing for rental

1 rates; providing for posting and advertising of
2 rates; providing penalties; providing for
3 access by residents; specifying a proprietor's
4 obligation to maintain premises; providing for
5 liability for property of residents; specifying
6 a resident's obligation to maintain a dwelling
7 unit; providing for proprietor's access to a
8 dwelling unit; providing for casualty damage;
9 providing a right of action for damages;
10 specifying conduct on certain premises;
11 providing for refusal of service; providing for
12 proprietor's rights relating to disorderly
13 conduct on premises; providing for detention
14 and arrest; providing certain immunity from
15 liability; prohibiting obtaining lodging
16 fraudulently; providing a penalty; providing
17 for rules of evidence in prosecutions;
18 providing for rights of a proprietor relating
19 to theft of property; providing for detention
20 and arrest; providing penalties; providing a
21 penalty for employee theft; providing for
22 disposition of unclaimed property; providing
23 for telephone surcharges under certain
24 circumstances; providing for firesafety;
25 specifying safety regulations; authorizing the
26 department to adopt rules for certain
27 buildings; providing for inspection; specifying
28 sanitary regulations; requiring a permit to
29 operate; providing penalties under certain
30 circumstances; specifying allocation of
31 proceeds; specifying permit as prerequisite for

1 certain local permits; providing for issuance
2 of permits; providing for permit fees;
3 providing for revocation of permits; providing
4 for fines; providing procedures; specifying
5 certain prohibited acts; providing for
6 application; providing for complaints by
7 aggrieved parties; providing for prosecution
8 for certain violations; providing duties of the
9 State Attorney; providing penalties; providing
10 for enforcement; providing for issuing
11 citations; requiring certain persons to assist
12 the department in enforcement; providing a
13 proprietor's right to lockout and interruption
14 of utilities under certain circumstances;
15 providing for a proprietor's right to recover
16 premises; providing for a writ of distress;
17 providing for venue and jurisdiction; providing
18 for certain complaints; providing requirements;
19 providing for a prejudgment writ of distress;
20 providing levy under a writ of distress;
21 specifying the form of such writ; providing for
22 inventory under such writ; providing exemptions
23 from such writ; providing for third party
24 claims under such writ; providing for judgment
25 for the plaintiff under certain circumstances;
26 providing for judgment for the defendant under
27 certain circumstances; providing for sale of
28 certain property under certain circumstances;
29 providing an effective date.

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

1 Section 1. Chapter 510, Florida Statutes, consisting
2 of sections 510.011, 510.013, 510.021, 510.032, 510.033,
3 510.034, 510.036, 510.037, 510.038, 510.041, 510.042, 510.101,
4 510.105, 510.111, 510.121, 510.122, 510.123, 510.131, 510.132,
5 510.133, 510.134, 510.136, 510.138, 510.141, 510.142, 510.143,
6 510.151, 510.161, 510.162, 510.191, 510.201, 510.211, 510.212,
7 510.215, 510.221, 510.241, 510.245, 510.247, 510.251, 510.261,
8 510.262, 510.265, 510.281, 510.282, 510.285, 510.401, 510.402,
9 510.403, 510.404, 510.405, 510.406, 510.407, 510.408, 510.409,
10 510.411, 510.412, 510.413, 510.414, 510.415, 510.416, and
11 510.417, Florida Statutes, is created to read:

12 510.011 Short title.--This chapter may be cited as the
13 "Florida Affordable Residential Accommodations Act."

14 510.013 Definitions.--As used in this chapter, unless
15 the context clearly indicates otherwise:

16 (1) "Advance rent" means moneys paid to the proprietor
17 to be applied to future rent payment periods, but does not
18 include rent paid in advance for a current rent payment
19 period.

20 (2)(a) "Affordable residential accommodations
21 establishment" means any permitted unit or group of units,
22 single complex of buildings, dwelling, building or group of
23 buildings, structure, barrack, or dormitory, and the land
24 appurtenant to such edifice, constructed, established, or
25 operated as housing which is affordable to low-income
26 individuals and families who are transient, migrant, seasonal,
27 or temporary workers.

28 (b) The following are excluded from the definition in
29 paragraph (a):
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1 1. Any dormitory or other living or sleeping facility
2 maintained by a public or private school, college, or
3 university for the use of students, faculty, or visitors;

4 2. Any hospital, nursing home, sanitarium, assisted
5 living facility, adult congregate living facility, or other
6 similar place;

7 3. Any place renting four rental units or less, unless
8 the rental units are advertised or held out to the public to
9 be places that are affordable residential accommodations;

10 4. Any dwelling unit licensed under chapter 509;
11 however, licensed public lodging facilities are presumed to
12 meet all requirements of rules adopted pursuant to ss.
13 510.212, 510.215, and 510.221 for purposes of obtaining a
14 permit to operate an affordable residential accommodation.

15 (3) "Building code," "housing code," and "health code"
16 means any law, ordinance, or governmental regulation
17 concerning health, safety, sanitation, or fitness for
18 habitation or the construction, maintenance, operation,
19 occupancy, use, or appearance of any dwelling unit.

20 (4) "Common areas" means that portion of an affordable
21 residential accommodation not included within private living
22 quarters and where residents of affordable residential
23 accommodations generally congregate.

24 (5) "Department" means the Department of Children and
25 Family Services and its representative county public health
26 units.

27 (6) "Deposit money" means any money held by the
28 proprietor on behalf of the resident, including, but not
29 limited to, a damage deposit, security deposit, advance rent
30 deposit, pet deposit, or any contractual deposit agreed to
31 between proprietor and resident, either in writing or orally.

1 (7) "Director" means the Secretary of the Department
2 of Children and Family Services.

3 (8) "Dwelling unit" means:

4 (a) A structure or part of a structure that is rented
5 for use as a home, residence, or sleeping place by one person
6 or by two or more persons who maintain a common household.

7 (b) A mobile home rented by a resident.

8 (c) A structure or part of a structure that is
9 furnished, with or without rent, as an incident of employment
10 for use as a home, residence, or sleeping place by one or more
11 persons.

12 (9) "Good faith" means honesty in fact in the conduct
13 or transaction concerned.

14 (10) "Invited resident" means any person who is
15 invited by a resident to an affordable residential
16 accommodation to visit that resident.

17 (11) "Other authorized visitors" means any person,
18 other than an invited resident, who is:

19 (a) A federal, state, county, or municipal government
20 official;

21 (b) A physician or other health care provider whose
22 sole purpose is to provide medical care or medical
23 information;

24 (c) A representative of a bona fide religious
25 organization who, during the visit, is engaged in the vocation
26 or occupation of a religious professional or worker such as a
27 minister, priest, or nun and visiting a person known to be a
28 resident;

29 (d) A representative of a nonprofit legal services
30 organization, who must comply with the Code of Professional
31 Conduct of The Florida Bar; or

1 (e) Any other person who provides services for
2 residents which are funded in whole or in part by local,
3 state, or federal funds but who does not conduct or attempt to
4 conduct solicitations.

5 (12) "Personal hygiene facilities" means adequate
6 facilities for providing hot water at a minimum of 110 degrees
7 Fahrenheit for bathing and dishwashing purposes, and an
8 adequate and convenient approved supply of potable water
9 available at all times in each affordable residential
10 accommodation for drinking, culinary, bathing, dishwashing,
11 and laundry purposes.

12 (13) "Premises" means a dwelling unit and the
13 structure of which it is a part and the appurtenant facilities
14 and grounds, areas, facilities, and property held out for the
15 use of residents of affordable residential accommodations
16 generally.

17 (14) "Private living quarters" means a building or
18 portion of a building, dormitory, or barracks, including its
19 bathroom facilities, or a similar type of sleeping and
20 bathroom area, which is a home, residence, or sleeping place
21 for a resident of an affordable residential accommodation.

22 (15) "Proprietor" means the owner, proprietor,
23 licensee, lessor, manager, assistant manager, or appointed
24 agent of an affordable residential accommodation.

25 (16) "Rent" means the periodic payments due the
26 proprietor from the resident for a license for the use and
27 occupancy of an affordable residential accommodation under a
28 rental agreement and any other payments due the proprietor
29 from the resident as may be designated as rent in a written
30 rental agreement.

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1 (17) "Rental agreement" means any written agreement,
2 or oral agreement providing for a license to use and occupy a
3 unit of the premises.

4 (18) "Resident" means any patron, customer, resident,
5 lodger, boarder, lessee, or occupant who has paid for a
6 license for the use and occupancy of an affordable residential
7 accommodation.

8 (19) "Security deposits" means any moneys held by the
9 proprietor as security for the performance of the rental
10 agreement, including, but not limited to, monetary damage to
11 the proprietor caused by the resident's breach of lease prior
12 to the expiration thereof.

13 (20) "Single complex of buildings" means all buildings
14 or structures that are owned, managed, controlled, or operated
15 under one business name and are situated on the same tract or
16 plot of land that is not separated by a public street or
17 highway.

18 (21) "Smoke detection device" means an electrical or
19 battery operated device which detects visible or invisible
20 particles of combustion and which is listed by Underwriters
21 Laboratories, Inc., Factory Mutual Laboratories, Inc., or any
22 other nationally recognized testing laboratory using
23 nationally accepted testing standards.

24 (22) "Tenant" means a resident.

25 510.021 Affordable Residential Accommodations Trust
26 Fund; collection and disposition of moneys received.--The
27 Affordable Residential Accommodations Trust Fund created by HB
28 _____ shall be used for the administration and operation of
29 the department and the carrying out of all laws and rules
30 under the jurisdiction of the department pertaining to the
31 construction, maintenance, and operation of affordable

1 residential accommodations, including the inspection of
2 elevators as required under chapter 399. All funds collected
3 by the department and the amounts paid for permits and fees
4 shall be deposited in the State Treasury into the Affordable
5 Residential Accommodations Trust Fund.

6 510.032 Application.--This chapter applies solely to
7 affordable residential accommodations. The provisions of this
8 chapter may be used only for permitted dwelling units and
9 shall not be used to circumvent the requirements of part II of
10 chapter 83 or part I of chapter 509. This chapter shall not
11 be read in pari materia with part II of chapter 83 or part I
12 of chapter 509.

13 510.033 Duties.--

14 (1) GENERAL.--The department shall carry out all of
15 the provisions of this chapter and all other applicable laws
16 and rules relating to the inspection or regulation of
17 affordable residential accommodations for the purpose of
18 safeguarding the public health, safety, and welfare. The
19 department shall be responsible for ascertaining that a
20 proprietor permitted under this chapter does not engage in any
21 misleading advertising or unethical practices.

22 (2) INSPECTION OF PREMISES.--The department has
23 responsibility and jurisdiction for all inspections required
24 by this chapter. The department has responsibility for
25 quality assurance. Each permitted accommodation shall be
26 inspected at least biannually and at such other times as the
27 department determines is necessary to ensure the public's
28 health, safety, and welfare. The department shall establish a
29 system to determine inspection frequency. If, during the
30 inspection of an affordable residential accommodation, an
31 inspector identifies elderly or disabled individuals who

1 appear to be victims of neglect, as defined in s. 415.102, or,
2 in the case of a building that is not equipped with automatic
3 sprinkler systems, residents or clients who may be unable to
4 self-preserve in an emergency, the department shall convene
5 meetings with the following agencies as appropriate to the
6 individual situation: the Department of Elderly Affairs, the
7 area agency on aging, the local fire marshal, the proprietor
8 and affected residents and clients, and other relevant
9 organizations, to develop a plan which improves the prospects
10 for safety of affected residents and, if necessary, identifies
11 alternative living arrangements such as facilities permitted
12 under part II or part III of chapter 400.

13 (3) Reports required.--The department shall send the
14 Governor a written report at the end of each fiscal year,
15 which report shall state, but not be limited to, the total
16 number of inspections conducted by the department to ensure
17 the enforcement of the provisions of this chapter and any
18 recommendations for improved inspection procedures. The
19 department shall also keep accurate account of all expenses
20 arising out of the performance of its duties and all fees
21 collected under this chapter.

22 (4) Rulemaking authority.--The department shall adopt
23 such rules as are necessary to carry out the provisions of
24 this chapter.

25 510.034 Nondiscrimination.--

26 (1) The Legislature declares that it is the policy of
27 this state that each county and municipality must permit and
28 encourage the development and use of a sufficient number of
29 affordable residential accommodations to meet local needs.
30 The Legislature further finds that discriminatory practices
31

1 that inhibit the development of affordable residential
2 accommodations are a matter of state concern.

3 (2) Any proprietor of housing which has qualified for
4 a permit to operate, or who would qualify for a permit based
5 upon plans submitted to the department, or the residents or
6 intended residents of such housing may invoke the provisions
7 of this chapter.

8 (3) A municipality or county may not enact or
9 administer local land use ordinances to prohibit or
10 discriminate against the development and use of affordable
11 residential accommodations because of the occupation, race,
12 sex, color, religion, national origin, or income of the
13 intended residents.

14 (4) This chapter does not prohibit the imposition of
15 local property taxes, water service and garbage collection
16 fees, normal inspection fees, local bond assessments, or other
17 fees, charges, or assessments to which other dwellings of the
18 same type in the same zone are subject.

19 (5) This chapter does not prohibit a municipality or
20 county from extending preferential treatment to affordable
21 residential accommodations, including, without limitation, fee
22 reductions or waivers or changes in architectural
23 requirements, site development or property line requirements,
24 or vehicle parking requirements that reduce the development
25 costs of affordable residential accommodations.

26 (6) The collection of sales tax, tourist development
27 tax, or any other excise tax on the rents paid by residents of
28 affordable residential accommodations is prohibited. The
29 rental of an affordable residential accommodation dwelling
30 unit is not a taxable privilege. This subsection shall not be
31 used to otherwise circumvent the provisions of s. 212.03 by

1 facilities not permitted as affordable residential
2 accommodations, or other taxing statutes.

3 510.036 Notices; form and service.--Each notice served
4 by the department pursuant to this chapter must be in writing
5 and must be delivered personally by an agent of the department
6 or by registered or certified mail to the proprietor of the
7 affordable residential accommodation. If the proprietor
8 refuses to accept service or evades service or the agent is
9 otherwise unable to effect service after due diligence, the
10 department may post such notice in a conspicuous place at the
11 accommodation. Any person who willfully refuses to sign and
12 accept a citation issued by the department commits a
13 misdemeanor of the second degree, punishable as provided in s.
14 775.082 or s. 775.083.

15 510.037 Right of entry.--The department or its
16 inspectors may enter and inspect affordable residential
17 accommodations at reasonable hours and investigate such facts,
18 conditions, and practices or matters as are necessary or
19 appropriate to determine whether any person has violated any
20 provisions of applicable statutes or rules adopted pursuant
21 thereto by the department. The right of entry extends to any
22 premises that the department has reason to believe is being
23 established, maintained, or operated as an affordable
24 residential accommodation without a permit, but such entry may
25 not be made without the permission of the owner, person in
26 charge, or resident thereof, unless an inspection warrant is
27 first obtained from the circuit court authorizing the entry.
28 Any application for a permit made under s. 510.032 constitutes
29 permission for, and complete acquiescence in, any entry or
30 inspection of the premises for which the permit is sought, to
31 verify the information submitted on or in connection with the

1 application; to discover, investigate, and determine the
2 existence of any violation of this chapter or rules adopted
3 under this chapter; or to elicit, receive, respond to, and
4 resolve complaints. Any current valid permit constitutes
5 unconditional permission for, and complete acquiescence in,
6 any entry or inspection of the premises by authorized
7 personnel. The department may from time to time publish the
8 reports of such inspections.

9 510.038 Affordable residential accommodations;
10 relationship of resident and proprietor; rights as private
11 enterprises.--

12 (1) Affordable residential accommodations are private
13 enterprises, and the proprietor has the right to refuse
14 accommodations or service to any person who is objectionable
15 or undesirable to the proprietor, but such refusal may not be
16 based upon race, creed, color, sex, physical disability, or
17 national origin. A person aggrieved by a violation of this
18 chapter or a violation of a rule adopted under this chapter
19 has a right of action pursuant to s. 760.11.

20 (2) No landlord-tenant relationship exists between an
21 affordable residential accommodation and the resident.

22 (3) An affordable residential accommodation licenses
23 the use and occupancy of the premises. The relationship
24 between the resident and the proprietor is that of licensee
25 and licensor.

26 (4) The license provides the resident with a personal
27 privilege, not assignable, and does not operate to confer on,
28 or vest in, a licensee any title, interest, or estate in the
29 property of the proprietor.

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1 (5) A resident shall not achieve the status of
2 residential tenant with property rights in the premises
3 regardless of the length of occupancy.

4 510.041 Rules; variances; penalties.--

5 (1) The department shall adopt rules necessary to
6 protect the health and safety of residents of affordable
7 residential accommodations and to implement the provisions of
8 this chapter. These rules must include provisions relating to
9 plan review of the construction of new, expanded, or remodeled
10 affordable residential accommodations, personal hygiene
11 facilities, lighting, sewage disposal, safety, minimum living
12 space per occupant, bedding, insect and rodent control,
13 garbage, heating equipment, water supply, maintenance and
14 operation of affordable residential accommodations, and such
15 other matters as the department finds to be appropriate or
16 necessary to protect the life and health of the residents.

17 (2) A proprietor may apply for a permanent structural
18 variance from the department's rules by filing a written
19 application and paying a fee set by the department, not to
20 exceed \$100. This application must:

21 (a) Clearly specify the standard from which the
22 variance is desired;

23 (b) Provide adequate justification that the variance
24 is necessary to obtain a beneficial use of an existing
25 facility and to prevent a practical difficulty or unnecessary
26 hardship; and

27 (c) Clearly set forth the specific alternative
28 measures that the proprietor has taken to protect the health
29 and safety of occupants and adequately show that the
30 alternative measures have achieved the same result as the
31 standard from which the variance is sought.

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2 The provisions of this subsection shall be liberally
3 construed.

4 (3) Any variance granted by the department must be in
5 writing, must state the standard involved, and must state as
6 conditions of the variance the specific alternative measures
7 taken to protect the health and safety of the occupants. In
8 denying the request, the department must provide written
9 notice under ss. 120.569 and 120.57 of the applicant's right
10 to an administrative hearing to contest the denial within 21
11 days after the date of receipt of the notice.

12 (4) The department shall inspect affordable
13 residential accommodations whenever necessary to respond to an
14 emergency or epidemiological condition.

15 510.042 Preemption authority.--The regulation and
16 inspection of affordable residential accommodations is
17 preempted to the state.

18 510.101 Establishment of rules; posting of notice;
19 maintenance of resident register.--

20 (1) Any proprietor of an affordable residential
21 accommodation may establish reasonable rules and regulations
22 for the management of the accommodation and its residents and
23 employees; and each resident or employee staying, sojourning,
24 or employed in the accommodation shall conform to and abide by
25 such rules and regulations so long as the resident or employee
26 remains in or at the accommodation. Such rules and
27 regulations shall be deemed to be a special contract between
28 the proprietor and each resident or employee using the
29 services or facilities of the proprietor. Such rules and
30 regulations shall control the liabilities, responsibilities,
31 and obligations of all parties. Any rules or regulations

1 established pursuant to this chapter shall be printed and
2 posted in a prominent place within such affordable residential
3 accommodation. Such posting shall also include notice that a
4 current copy of this chapter is available in the office for
5 public review. The proprietor shall review the rules and
6 regulations with each registering tenant at the time of
7 registration and shall provide a copy of such rules and
8 regulations to the residents of each dwelling at the beginning
9 of their initial rental period. Rules and regulations must be
10 in writing, posted, and provided to residents of each dwelling
11 unit in order to be enforceable.

12 (2) It is the duty of each proprietor of an affordable
13 residential accommodation to maintain at all times a register,
14 signed by or for residents who occupy rental units within the
15 accommodation, showing the dates upon which the rental units
16 were occupied by such residents and the rates charged for
17 their occupancy. This register shall be maintained in
18 chronological order and available for inspection by the
19 department at any time. Proprietors need not make available
20 registers which are more than 2 years old. Each proprietor
21 shall maintain at all times a current copy of this chapter in
22 the office of the permitted accommodation which shall be made
23 available to the public upon request. Written rental
24 agreements, if any, must be maintained in the same manner and
25 for the same term as, and must include all information on, the
26 registration.

27 510.105 Obligation of good faith.--Every rental
28 agreement or duty within this part imposes an obligation of
29 good faith in its performance or enforcement.

30 510.111 Disclosure.--

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1 (1) The proprietor shall disclose in writing to the
2 residents of each unit, at or before the commencement of the
3 tenancy, the name and address of the proprietor or a person
4 authorized to receive notices and demands in the proprietor's
5 behalf. The person so authorized to receive notices and
6 demands retains authority until the resident is notified
7 otherwise. All notices of changes thereto shall be delivered
8 to the resident's residence or, if specified in writing by the
9 resident, to any other address. The disclosure may be made a
10 part of a rule adopted under s. 510.101(1).

11 (2) The proprietor, upon completion of construction of
12 a building exceeding three stories in height and containing
13 dwelling units, shall disclose to the residents initially
14 moving into the building the availability or lack of
15 availability of fire protection.

16 510.121 Rent; duration of tenancies.--Unless otherwise
17 agreed, rent is payable without demand or notice on the day
18 and hour agreed upon in the rental agreement, periodic rent is
19 payable at the beginning of each rent payment period, and rent
20 is uniformly apportionable from day to day when paid as
21 advance rent, otherwise a daily rate may be charged which may
22 be no more than twice the proportionate rent. Late payment
23 fees may be charged for untimely rent payments not exceeding
24 15 percent of the periodic rent. Late fees may not be applied
25 to daily rates or when a resident is renting by the day.

26 510.122 Room rental rates; posting; advertising;
27 penalties.--

28 (1) In each affordable residential accommodation
29 renting by the day or week there shall be posted in a plainly
30 legible fashion, in a conspicuous place in the rental office
31 of the accommodation, the rates at which each such unit is

1 rented. Such posting shall show the maximum amount charged
2 for occupancy per person; the amount charged for extra
3 conveniences, more complete accommodations, or additional
4 furnishings. Copies of the posted rate schedules for all
5 similar rental units in each accommodation shall be filed with
6 the department at least 5 days before such rates are to become
7 effective and shall be kept current. The rates posted in the
8 accommodation may not exceed those on file with the
9 department, and an accommodation may not charge more than the
10 rates posted in the accommodation and filed with the
11 department.

12 (2)(a) A proprietor may not display or cause to be
13 displayed any sign which may be seen from a public highway or
14 street, which sign includes a statement or numbers relating to
15 the rates charged at an affordable residential accommodation
16 renting by the day or week, unless such sign includes, in
17 letters and figures of similar size and prominence, the
18 following words: "Affordable Residential Accommodations." A
19 sign may not be displayed which includes a statement or
20 numbers which appear to relate to the rate charged at an
21 affordable residential accommodation when in fact the
22 statement or numbers do not relate to such rates. A sign may
23 not be displayed which uses the words, "motel," "hotel," or
24 other indications that the facility caters to the traveling
25 public or is licensed under chapter 509, unless there are
26 dwelling units on the premises properly licensed under chapter
27 509.

28 (b) An advertisement may not be published that
29 contains false or misleading statements about any affordable
30 residential accommodation.

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1 (3) Any proprietor of any affordable residential
2 accommodation who violates, or causes to be violated, any of
3 the provisions of this section commits a misdemeanor of the
4 second degree, punishable as provided in s. 775.082 or s.
5 775.083. In addition to the criminal penalty, the permit of
6 any affordable residential accommodation may be suspended or
7 revoked by the department, or the department may impose fines
8 on the permit, in accordance with the provisions of s.
9 510.261, when the proprietor of such accommodation is
10 determined by the department to have violated any provision of
11 this section. It is not necessary that the offender be
12 convicted of violating this section as a condition precedent
13 to the suspension or revocation of such license or the
14 imposition of a civil penalty by the department.

15 510.123 Access to affordable residential
16 accommodations by guests.--

17 (1) RIGHT OF ACCESS OF INVITED GUEST.--A resident of
18 an affordable residential accommodation may decide who may
19 visit him or her in the resident's private living quarters. A
20 proprietor may not prohibit or attempt to prohibit an invited
21 guest access to or egress from the private living quarters of
22 the resident who invited the guest by the erection or
23 maintenance of any physical barrier, by physical force or
24 violence, by threat of force or violence, or by any verbal
25 order or notice given in any manner, except for any violation
26 by the guest of s. 510.143. Any invited guest must leave the
27 private living quarters upon the reasonable request of a
28 resident residing within the same private living quarters. No
29 resident shall invite a person onto the premises who has been
30 issued a trespass warrant by a law enforcement officer.

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1 (2) RIGHT OF ACCESS OF OTHERS.--Other authorized
2 visitors have a right of access to or egress from the common
3 areas of an affordable residential accommodation as provided
4 in this subsection. A person may not prohibit or attempt to
5 prohibit other visitors access to or egress from the common
6 areas of an affordable residential accommodation by the
7 erection or maintenance of any physical barrier, by physical
8 force or violence, by threat of force or violence, or by any
9 verbal order or notice given in any manner, except as provided
10 in this chapter. Proprietors of affordable residential
11 accommodations may adopt reasonable rules regulating hours of
12 access to housing, if such rules permit at least 4 hours of
13 access each day during nonworking hours Monday through
14 Saturday and between the hours of 12 noon and 8 p.m. on
15 Sunday. Any other authorized visitor must leave the private
16 living quarters upon the reasonable request of a person who
17 resides in the same private living quarters.

18 (3) CIVIL ACTION.--Any person prevented from
19 exercising rights guaranteed by this chapter may bring an
20 action in the appropriate court of the county in which the
21 alleged infringement occurred; and, upon favorable
22 adjudication, the court shall enjoin the enforcement of any
23 rule, practice, or conduct that operates to deprive the person
24 of such rights.

25 (4) CIVIL LIABILITY.--Other visitors are licensees,
26 not residents or invitees, for purposes of any premises
27 liability.

28 (5) OTHER RULES.--The proprietor may require invited
29 residents and other visitors to check in before entry and to
30 present picture identification. An affordable residential
31 accommodation may adopt other rules regulating access to an

1 accommodation only if the rules are reasonably related to the
2 purpose of promoting the safety, welfare, or security of
3 residents, visitors, or the proprietor's business.

4 (6) POSTING REQUIRED.--Rules relating to access are
5 unenforceable unless the rules have been conspicuously posted
6 in the affordable residential accommodation, have been given
7 to each resident at the beginning of residency, and a copy has
8 been furnished to the department.

9 (7) LIMITATIONS.--This section does not create a
10 general right of solicitation in affordable residential
11 accommodations. This section does not prohibit the erection
12 or maintenance of a fence around an affordable residential
13 accommodation if one or more unlocked gates or gateways in the
14 fence are provided; nor does this section prohibit posting the
15 land adjacent to an affordable residential accommodation if
16 access to the accommodation is clearly marked; nor does this
17 section restrict residents residing within the same living
18 quarters from imposing reasonable restrictions on their fellow
19 residents to accommodate reasonable privacy and other concerns
20 of the residents.

21 510.131 Proprietor's obligation to maintain
22 premises.--

23 (1) The proprietor at all times during the tenancy
24 shall:

25 (a) Comply with the requirements of applicable
26 building, housing, and health codes; or

27 (b) Where there are no applicable building, housing,
28 or health codes, maintain the roofs, windows, screens, doors,
29 floors, steps, porches, exterior walls, foundations, and all
30 other structural components in good repair and capable of
31

1 resisting normal forces and loads and the plumbing in
2 reasonable working condition; and

3 (c) Comply with the requirements of this section.
4

5 The proprietor's obligations under this subsection may be
6 altered or modified in writing with respect to a single-family
7 home or duplex.

8 (2)(a) Unless otherwise agreed in writing, in addition
9 to the requirements of subsection (1), the proprietor of a
10 dwelling unit other than a single-family home or duplex shall,
11 at all times during the tenancy, make reasonable provisions
12 for:

13 1. Locks and keys.

14 2. The clean and safe condition of common areas.

15 3. Garbage removal and outside receptacles therefor.

16 4. Properly functioning facilities for heat during
17 winter, running water, and hot water.

18 5. Floor coverings in good condition for all floors of
19 vinyl, asphalt tile, carpet, or some other commercial floor
20 covering, but not including paint.

21 6. Curtains, drapes, or blinds in good operating
22 condition for all windows in the dwelling unit.

23 7. Adequate furniture for each room of each dwelling
24 unit with minimum requirements as follows:

25 a. Living room, if any: couch, end table, easy chair,
26 lamp.

27 b. Each bedroom: double bed or two single beds,
28 chest-of-drawers, bedside table with two drawers, lamp.

29 c. Kitchen, if any: dining table, seating facilities
30 for each resident in the unit, properly functioning electric
31 or gas range no smaller than 20 inches in width, properly

1 functioning refrigerator with no less than 10 cubic feet of
2 refrigerated area, adequate cabinets, and sink.

3
4 At the sole discretion of the proprietor, residents may
5 provide their own furniture upon request made by the resident.

6 8. The extermination of rats, mice, roaches, ants,
7 wood-destroying organisms, and bed bugs. When vacation of the
8 premises is required for such extermination, the proprietor
9 shall not be liable for damages but shall abate the rent. The
10 resident shall be required to temporarily vacate the premises
11 for a period of time not to exceed 4 days, on 7 days' written
12 notice, if necessary, for extermination pursuant to this
13 subparagraph.

14 (b) Unless otherwise agreed in writing, at the
15 commencement of the tenancy of a single-family home or duplex,
16 the proprietor shall install working smoke detection devices.

17 (c) Nothing in this section authorizes the resident to
18 raise a noncompliance by the proprietor with this subsection
19 as a defense to an action for possession under s. 510.141 or
20 any other provision of law.

21 (d) Nothing contained in this subsection prohibits the
22 proprietor from providing in the rental agreement that the
23 resident is obligated for the costs or charges for garbage
24 removal, water, fuel, or utilities when in excess of the
25 allowable amount shown on the rental agreement as the
26 reasonable utility costs for the dwelling unit occupied by the
27 resident.

28 (3) The proprietor is not responsible to the resident
29 under this section for conditions created or caused by the
30 negligent or wrongful act or omission of the resident, a

31

1 member of his family, or other person on the premises with the
2 resident's consent.

3 510.132 Liability for property of residents.--

4 (1) The proprietor of an affordable residential
5 accommodation is not under any obligation to accept for
6 safekeeping any moneys, securities, jewelry, or precious
7 stones of any kind belonging to any resident, and, if such are
8 accepted for safekeeping, the proprietor is not liable for the
9 loss thereof unless such loss was the proximate result of
10 fault or negligence of the proprietor. However, the liability
11 of the proprietor shall be limited to \$1,000 for such loss, if
12 the affordable residential accommodation gave a receipt for
13 the property, stating the value, on a form which stated, in
14 type large enough to be clearly noticeable, that the
15 affordable residential accommodation was not liable for any
16 loss exceeding \$1,000 and was only liable for that amount if
17 the loss was the proximate result of fault or negligence of
18 the proprietor.

19 (2) The proprietor of an affordable residential
20 accommodation is not liable or responsible to any resident for
21 the loss of wearing apparel, goods, or other property, except
22 as provided in subsection (1), unless such loss occurred as
23 the proximate result of fault or negligence of such
24 proprietor, and, in case of fault or negligence, the
25 proprietor is not liable for a greater sum than \$500, unless
26 the resident, prior to the loss or damage, files with the
27 proprietor an inventory of his or her effects and the value
28 thereof and the proprietor is given the opportunity to inspect
29 such effects and check them against such inventory. The
30 proprietor of an affordable residential accommodation is not

31

1 liable or responsible to any resident for the loss of effects
2 listed in such inventory in a total amount exceeding \$1,000.

3 510.133 Resident's obligation to maintain dwelling
4 unit.--The resident at all times during the tenancy shall:

5 (1) Comply with all obligations imposed upon residents
6 by applicable provisions of building, housing, and health
7 codes and the rules of the department.

8 (2) Keep that part of the premises which he or she
9 occupies and uses clean and sanitary, especially the kitchen
10 and bath areas.

11 (3) Remove from the resident's dwelling unit all
12 garbage in a clean and sanitary manner.

13 (4) Keep all plumbing fixtures in the dwelling unit or
14 used by the resident clean and sanitary.

15 (5) Use and operate in a reasonable manner all
16 electrical, plumbing, sanitary, heating, ventilating,
17 air-conditioning, and other equipment, furniture, and
18 appliances, including elevators.

19 (6) Not destroy, deface, damage, impair, or remove any
20 part of the premises or property therein belonging to the
21 proprietor nor permit any person to do so.

22 (7) Conduct himself or herself, and require other
23 persons on the premises with his or her consent to conduct
24 themselves, in a manner that does not unreasonably disturb the
25 resident's neighbors, the management, or constitute a breach
26 of the peace.

27 510.134 Proprietor's access to dwelling unit.--

28 (1) The resident shall not unreasonably withhold
29 consent between the hours of 7:30 a.m. and 8:00 p.m. to the
30 proprietor to enter the dwelling unit from time to time or on
31 a daily basis in order to inspect the premises; make necessary

1 or agreed repairs, decorations, alterations, or improvements;
2 supply agreed services; or exhibit the dwelling unit to
3 prospective or actual purchasers, mortgagees, residents,
4 workers, or contractors.

5 (2) The proprietor may enter the dwelling unit at any
6 time for the protection or preservation of the premises. The
7 proprietor may enter the dwelling unit upon reasonable notice
8 to the resident and at a reasonable time for the purpose of
9 repair of the premises. "Reasonable notice" for the purpose
10 of repair is notice given at least 12 hours prior to the
11 entry, and reasonable time for the purpose of repair shall be
12 between the hours of 7:30 a.m. and 8:00 p.m. The proprietor
13 may enter the dwelling unit when necessary for the further
14 purposes set forth in subsection (1) under any of the
15 following circumstances:

16 (a) With the consent of the resident;

17 (b) In case of emergency;

18 (c) When the resident unreasonably withholds consent;

19 or

20 (d) If the resident is absent from the premises for a
21 period of time equal to one-half the time for periodic rental
22 payments. If the rent is current and the resident notifies the
23 proprietor of an intended absence, then the proprietor may
24 enter only for the purposes provided in subsection (1).

25 (e) To enforce the provisions of s. 509.141, s.
26 509.142, or s. 509.143.

27 (3) The proprietor shall not abuse the right of access
28 nor use it to harass the resident.

29 510.136 Casualty damage.--If the premises are damaged
30 or destroyed other than by the wrongful or negligent acts of
31 the resident so that the enjoyment of the premises is

1 substantially impaired, the resident may terminate the rental
2 agreement and immediately vacate the premises. The resident
3 may vacate the part of the premises rendered unusable by the
4 casualty, in which case the resident's liability for rent
5 shall be reduced by the fair rental value of that part of the
6 premises damaged or destroyed. If the rental agreement is
7 terminated, the proprietor shall have 15 days to return the
8 security deposit and the unused portion of the rent to the
9 resident.

10 510.138 Right of action for damages.--If either the
11 proprietor or the resident fails to comply with the
12 requirements of the rental agreement or this part, the
13 aggrieved party may recover the damages caused by the
14 noncompliance. Legal fees shall not be assessed against the
15 losing party for any acton taken under this chapter.

16 510.141 Refusal of admission and ejection of
17 undesirable residents; notice; procedure; penalties for
18 refusal to leave.--

19 (1) The proprietor of any affordable residential
20 accommodation may remove or cause to be removed from such
21 accommodation, in the manner hereinafter provided, any
22 resident of the accommodation or any visitor who, while on the
23 premises of the accommodation, illegally possesses or deals in
24 controlled substances as defined in chapter 893 or is
25 intoxicated, profane, lewd, or brawling; who indulges in any
26 language or conduct which disturbs the peace and comfort of
27 other residents or which injures the reputation, dignity, or
28 standing of the accommodation; who, in the case of an
29 affordable residential accommodation, fails to make payment of
30 rent at the agreed-upon rental rate by the agreed-upon
31 checkout time; who fails to check out by the time agreed upon

1 in writing by the resident and affordable residential
2 accommodation at check-in unless an extension of time is
3 agreed to by the affordable residential accommodation and
4 resident prior to checkout; who, in the opinion of the
5 proprietor, is a person the continued entertainment of whom
6 would be detrimental to such accommodation. The admission to,
7 or the removal from, such accommodation shall be at the sole
8 discretion of the proprietor but shall not be based upon race,
9 creed, color, sex, physical disability, or national origin.

10 (2) The proprietor of any affordable residential
11 accommodation shall notify such resident or visitor that the
12 accommodation no longer desires to entertain the resident and
13 shall request that such resident or visitor immediately depart
14 from the accommodation. Such notice may be given orally or in
15 writing. If the notice is in writing, it shall be as follows:

16 "You are hereby notified that this accommodation no
17 longer desires to entertain you as (its resident or a visitor
18 on the premises), and you are requested to leave at once. To
19 remain after receipt of this notice is a misdemeanor under the
20 laws of this state."

21
22 If such resident has paid in advance, the accommodation shall,
23 at the time such notice is given, tender to such resident the
24 unused portion of the advance payment; however, the
25 accommodation may withhold payment for each full day that the
26 resident has been entertained at the accommodation for any
27 portion of the 24-hour period of such day. A resident's
28 occupancy of a dwelling until past 8:00 p.m. constitutes
29 occupancy for an entire day.

30 (3) Any resident or visitor who remains or attempts to
31 remain in any such accommodation after being requested to

1 leave commits a misdemeanor of the second degree, punishable
2 as provided in s. 775.082 or s. 775.083.

3 (4) If any person is illegally on the premises of any
4 affordable residential accommodation, the proprietor of such
5 accommodation may call upon any law enforcement officer of
6 this state for assistance. It is the duty of such law
7 enforcement officer, upon the request of such proprietor, to
8 place under arrest and take into custody for violation of this
9 section any resident who violates subsection (3) in the
10 presence of the officer. If a warrant has been issued by the
11 proper judicial officer for the arrest of any violator of
12 subsection (3), the officer shall serve the warrant, arrest
13 the person, and take the person into custody. Upon arrest,
14 with or without a warrant, or upon a request by the proprietor
15 to leave the premises, the resident will be deemed to have
16 given up any right to occupancy or to have abandoned such
17 right of occupancy of the premises, and the proprietor of the
18 accommodation may then make such premises available to other
19 residents. However, the proprietor of the accommodation shall
20 employ all reasonable and proper means to care for any
21 personal property which may be left on the premises by such
22 resident and shall refund any unused portion of moneys paid by
23 such resident for the occupancy of such premises. The taking
24 into custody and detention by a law enforcement officer at an
25 affordable residential accommodation, if done in compliance
26 with this subsection, does not render such law enforcement
27 officer criminally or civilly liable for false arrest, false
28 imprisonment, or unlawful detention.

29 510.142 Conduct on premises; refusal of service.--The
30 proprietor of an affordable residential accommodation may
31 refuse amenities or service to any person whose conduct on the

1 premises of the accommodation, in the sole opinion of the
2 proprietor, displays intoxication, profanity, lewdness, or
3 brawling; who indulges in language or conduct such as to
4 disturb the peace or comfort of other residents; who engages
5 in illegal or disorderly conduct; who illegally possesses or
6 deals in controlled substances as defined in chapter 893; or
7 whose conduct constitutes a nuisance. This provision applies
8 to guests, invitees, and licensees. Such refusal may not be
9 based upon race, creed, color, sex, physical disability, or
10 national origin.

11 510.143 Disorderly conduct on the premises of an
12 affordable residential accommodation; detention; arrest;
13 immunity from liability.--

14 (1) A proprietor may take a person into custody and
15 detain that person in a reasonable manner and for a reasonable
16 time if the proprietor has probable cause to believe that the
17 person was engaging in disorderly conduct in violation of s.
18 877.03 on the premises of the permitted accommodation and that
19 such conduct was creating a threat to the life or safety of
20 the person or others. The proprietor shall call a law
21 enforcement officer to the scene immediately after detaining a
22 person under this subsection.

23 (2) A law enforcement officer may arrest, either on or
24 off the premises of the permitted accommodation and without a
25 warrant, any person the officer has probable cause to believe
26 violated s. 877.03 on the premises of a permitted
27 accommodation and, in the course of such violation, created a
28 threat to the life or safety of the person or others.

29 (3) A proprietor or a law enforcement officer who
30 detains a person under subsection (1) or makes an arrest under
31 subsection (2) is not civilly or criminally liable for false

1 arrest, false imprisonment, or unlawful detention on the basis
2 of any action taken in compliance with subsection (1) or
3 subsection (2).

4 (4) A person who resists the reasonable efforts of a
5 proprietor or a law enforcement officer to detain or arrest
6 that person in accordance with this section commits a
7 misdemeanor of the first degree, punishable as provided in s.
8 775.082 or s. 775.083, unless the person did not know or did
9 not have reason to know that the person seeking to make such
10 detention or arrest was the proprietor of the accommodation or
11 a law enforcement officer.

12 510.151 Obtaining lodging with intent to defraud;
13 penalty.--

14 (1) Any person who obtains lodging or other amenities
15 having a value of less than \$300 at any affordable residential
16 accommodation, with intent to defraud the proprietor thereof,
17 commits a misdemeanor of the second degree, punishable as
18 provided in s. 775.082 or s. 775.083; if such lodging or other
19 amenities have a value of \$300 or more, such person commits a
20 felony of the third degree, punishable as provided in s.
21 775.082, s. 775.083, or s. 775.084.

22 (2) This section does not apply where there has been
23 an agreement in writing for delay in payments.

24 510.161 Rules of evidence in prosecutions.--In
25 prosecutions under s. 510.151, proof that lodging or other
26 amenities were obtained by false pretense; by false or
27 fictitious show of baggage or other property; by absconding
28 without paying or offering to pay for such lodging or
29 amenities; or by surreptitiously removing or attempting to
30 remove baggage shall constitute prima facie evidence of
31 fraudulent intent. If the proprietor of the accommodation has

1 probable cause to believe, and does believe, that any person
2 has obtained food, lodging, or other amenities at such
3 accommodation with intent to defraud the proprietor thereof,
4 the failure to make payment upon demand therefor, there being
5 no dispute as to the amount owed, shall constitute prima facie
6 evidence of fraudulent intent in such prosecutions.

7 510.162 Theft of personal property; detaining and
8 arrest of violator; theft by employee.--

9 (1) Any law enforcement officer or proprietor of an
10 affordable residential accommodation who has probable cause to
11 believe that theft of personal property belonging to such
12 accommodation has been committed by a person and that the
13 officer or proprietor can recover such property or the
14 reasonable value thereof by taking the person into custody
15 may, for the purpose of attempting to effect such recovery or
16 for prosecution, take such person into custody on the premises
17 and detain such person in a reasonable manner and for a
18 reasonable period of time. If the proprietor takes the person
19 into custody, a law enforcement officer shall be called to the
20 scene immediately. The taking into custody and detention by a
21 law enforcement officer or proprietor of an affordable
22 residential accommodation, if done in compliance with this
23 subsection, does not render such law enforcement officer or
24 proprietor criminally or civilly liable for false arrest,
25 false imprisonment, or unlawful detention.

26 (2) Any law enforcement officer may arrest, either on
27 or off the premises and without warrant, any person if there
28 is probable cause to believe that person has committed theft
29 in an affordable residential accommodation.

30 (3) Any person who resists the reasonable effort of a
31 law enforcement officer or proprietor of an affordable

1 residential accommodation to recover property which the law
2 enforcement officer or proprietor had probable cause to
3 believe had been stolen from the affordable residential
4 accommodation, and who is subsequently found to be guilty of
5 theft of the subject property, commits a misdemeanor of the
6 first degree, punishable as provided in s. 775.082 or s.
7 775.083, unless such person did not know, or did not have
8 reason to know, that the person seeking to recover the
9 property was a law enforcement officer or the proprietor. For
10 purposes of this section, the charge of theft and the charge
11 of resisting apprehension may be tried concurrently.

12 (4) Theft of any property belonging to a resident of
13 an accommodation permitted under this chapter, or of property
14 belonging to such accommodation, by an employee of the
15 accommodation or by an employee of a person, firm, or entity
16 which has contracted to provide services to the accommodation
17 constitutes a felony of the third degree, punishable as
18 provided in s. 775.082 or s. 775.083.

19 510.191 Unclaimed property.--Any property with an
20 identifiable owner which is left in an affordable residential
21 accommodation, other than property belonging to a resident who
22 has vacated the premises without notice to the proprietor and
23 with an outstanding account, which property remains unclaimed
24 after being held by the establishment for 90 days after
25 written notice to the resident or owner of the property, shall
26 become the property of the accommodation. Property without an
27 identifiable owner which is found in an affordable residential
28 accommodation is subject to the provisions of chapter 705. An
29 affordable residential accommodation may charge a reasonable
30 storage and handling fee for any property which must be
31 stored.

1 510.201 Telephone surcharges by affordable residential
2 accommodations.--

3 (1) An affordable residential accommodation which
4 imposes a surcharge for any telephone call must post notice of
5 such surcharge in a conspicuous place located by each
6 telephone from which a call which is subject to a surcharge
7 may originate. Such notice must be plainly visible and
8 printed on a sign that is not less than 3 inches by 5 inches
9 in size, and such notice shall clearly state if the surcharge
10 applies whether or not the telephone call has been attempted
11 or completed. An affordable residential accommodation which
12 imposes a charge for delivering phone messages to residents
13 must state the charges in the rules of the accommodation.

14 (2) The department may, pursuant to s. 510.261,
15 suspend or revoke the permit of, or impose a fine against, any
16 affordable residential accommodation that violates subsection
17 (1).

18 510.211 Safety regulations.--

19 (1) Each bedroom or apartment in each affordable
20 residential accommodation shall be equipped with an approved
21 locking device on each door opening to the outside, to an
22 adjoining room or apartment, or to a hallway.

23 (2) The department, or its agent, shall immediately
24 notify the local firesafety authority or the State Fire
25 Marshal of any major violation of a rule adopted under chapter
26 633 which relates to affordable residential accommodations.
27 The department may impose administrative sanctions for
28 violations of these rules pursuant to s. 510.261 or may refer
29 such violations to the local firesafety authorities for
30 enforcement.

31

1 (3)(a) It is unlawful for any person to use within any
2 affordable residential accommodation any fuel-burning
3 wick-type equipment for space heating unless such equipment is
4 vented so as to prevent the accumulation of toxic or injurious
5 gases or liquids.

6 (b) Any person who violates the provisions of
7 paragraph (a) commits a misdemeanor of the second degree,
8 punishable as provided in s. 775.082 or s. 775.083.

9 (4) Each affordable residential accommodation three or
10 more stories in height must have safe and secure railings on
11 all balconies, platforms, and stairways, and all such railings
12 must be properly maintained and repaired. The department may
13 impose administrative sanctions for violations of this
14 subsection pursuant to s. 510.261.

15 510.212 Affordable residential accommodations three or
16 more stories in height; inspection rules.--The department is
17 directed to provide rules to require that:

18 (1) Every affordable residential accommodation three
19 or more stories in height in the state file a certificate
20 stating that any and all balconies, platforms, stairways, and
21 railways have been inspected by a person competent to conduct
22 such inspections and are safe, secure, and free of defects.

23 (2) The information required under subsection (1) be
24 filed commencing with licensing, and every 3 years thereafter
25 on January 31, with the department and the applicable county
26 or municipal authority responsible for building and zoning
27 permits.

28 (3) If an affordable residential accommodation three
29 or more stories in height fails to file the information
30 required in subsection (1), the department shall impose
31 administrative sanctions pursuant to s. 510.261.

1 510.215 Firesafety.--
2 (1) Any affordable residential accommodation three or
3 more stories in height shall be equipped with an automatic
4 sprinkler system installed in compliance with the provisions
5 prescribed in the National Fire Protection Association
6 publication NFPA No. 13, "Standards for the Installation of
7 Sprinkler Systems." The sprinkler installation may be omitted
8 in closets which are not over 24 square feet in area and in
9 bathrooms which are not over 55 square feet in area, which
10 closets and bathrooms are located in resident rooms. Each
11 resident room shall be equipped with an approved listed
12 single-station smoke detector meeting the minimum requirements
13 of the National Fire Protection Association NFPA 74 "Standards
14 for the Installation, Maintenance and Use of Household Fire
15 Warning Equipment," powered from the building electrical
16 service, notwithstanding the number of stories in the
17 structure or type or means of egress. Single-station smoke
18 detection is not required when resident rooms contain smoke
19 detectors connected to a central alarm system which also
20 alarms locally.
21 (2) Any affordable residential accommodation three or
22 more stories in height shall be equipped with:
23 (a) A system which complies with subsection (1); or
24 (b) An approved sprinkler system for all interior
25 corridors, public areas, storage rooms, closets, kitchen
26 areas, and laundry rooms, less individual resident rooms, if
27 the following conditions are met:
28 1. There is a minimum 1-hour separation between each
29 resident room and between each resident room and a corridor.
30 2. The building is constructed of noncombustible
31 materials.

1 3. The egress conditions meet the requirements of the
2 National Fire Protection Association, Life Safety Code, NFPA
3 101, s. 5-3.

4 4. The building has a complete automatic fire
5 detection system which meets the requirements of the National
6 Fire Protection Association NFPA 72A and NFPA 72E, including
7 smoke detectors in each resident room individually
8 annunciating to a panel at a supervised location.

9 (3) The provisions for installation of single-station
10 smoke detectors required in subsection (1) and subparagraph
11 (2)(b)4. shall be waived by the Division of State Fire Marshal
12 for any accommodation for which the construction contract was
13 let before October 1, 1983, and which is under three stories
14 in height, if each individual resident room is equipped with a
15 smoke detector approved by the Division of State Fire Marshal
16 and the schedule for compliance is not later than October 1,
17 1986.

18 (4) Notwithstanding any other provision of law to the
19 contrary, this section applies only to those affordable
20 residential accommodations in a building wherein more than 50
21 percent of the units in the building are advertised or held
22 out to the public as available for affordable residential
23 accommodation occupancy.

24 (5)(a) Special exceptions to the provisions of this
25 section shall be made for affordable residential
26 accommodations that are listed in the National Register of
27 Historic Places as determined by the United States Department
28 of the Interior or that are of historical significance to this
29 state as determined by the State Historic Preservation
30 Officer, designated pursuant to s. 267.061(5), after
31 consultation with the chair of the local historic preservation

1 board or commission, if such board or commission exists. For
2 such structures, provisions shall be made for a system of fire
3 protection and lifesafety support that would meet the intent
4 of the National Fire Protection Association standards and be
5 acceptable to, and approved by, a commission composed of the
6 director of the department, the director of the Division of
7 State Fire Marshal, and the State Historic Preservation
8 Officer. The director of the Division of State Fire Marshal
9 shall be designated chair of the commission and shall record
10 the minutes of each commission meeting.

11 (6) The Division of State Fire Marshal shall adopt, in
12 accordance with the provisions of chapter 120, any rules
13 necessary for the implementation and enforcement of this
14 section. The Division of State Fire Marshal shall enforce this
15 section in accordance with the provisions of chapter 633, and
16 any establishment licensed under this chapter in violation of
17 this section may be subject to administrative sanctions by the
18 department pursuant to s. 510.261.

19 (7) Specialized smoke detectors for the deaf and
20 hearing impaired shall be available upon request by residents
21 in affordable residential accommodations at a rate of at least
22 one such smoke detector per 50 dwelling units or portions
23 thereof, not to exceed five such smoke detectors per
24 affordable residential accommodation.

25 (8) The National Fire Protection Association
26 publications referenced in this section are the ones most
27 recently adopted by rule of the Division of State Fire Marshal
28 of the Department of Insurance.

29 510.221 Sanitary regulations.--

30 (1) Each affordable residential accommodation shall be
31 supplied with potable water and shall provide adequate

1 sanitary facilities for the accommodation of its employees and
2 residents. Such facilities may include, but are not limited
3 to, showers, handwash basins, toilets, and bidets. Such
4 sanitary facilities shall be connected to approved plumbing.
5 Such plumbing shall be sized, installed, and maintained in
6 accordance with applicable state and local plumbing codes.
7 Wastewater or sewage shall be properly treated onsite or
8 discharged into an approved sewage collection and treatment
9 system.

10 (2) Each affordable residential accommodation shall
11 maintain not less than one public bathroom for each sex,
12 properly designated, unless otherwise provided by rule. The
13 department shall establish by rule categories of
14 accommodations not subject to the bathroom requirement of this
15 paragraph. Each affordable residential accommodation that does
16 not provide private or connecting bathrooms shall maintain one
17 public bathroom on each floor for every 15 residents, or major
18 fraction of that number, rooming on that floor.

19 (3) Each affordable residential accommodation
20 permitted under this chapter shall be properly lighted,
21 heated, cooled, and ventilated and shall be operated with
22 strict regard to the health, comfort, and safety of the
23 residents. Such proper lighting shall be construed to apply
24 to both daylight and artificial illumination.

25 (4) Each bedroom in an affordable residential
26 accommodation shall have an opening to the outside of the
27 building, air shafts, or courts sufficient to provide adequate
28 ventilation. Where ventilation is provided mechanically, the
29 system shall be capable of providing at least two air changes
30 per hour in all areas served. Where ventilation is provided by

31

1 windows, each room shall have at least one window opening
2 directly to the outside.

3 (5) The proprietor of any affordable residential
4 accommodation permitted under this chapter shall take
5 effective measures to protect the accommodation against the
6 entrance and the breeding on the premises of all vermin. Any
7 room in such accommodation infested with such vermin shall be
8 fumigated, disinfected, or renovated, or other corrective
9 action shall be taken, until the vermin are exterminated.

10 (6) A person, while suffering from any contagious or
11 communicable disease, while a carrier of such disease, or
12 while afflicted with boils or infected wounds or sores, may
13 not be employed by any accommodation licensed under this
14 chapter in any capacity whereby there is a likelihood such
15 disease could be transmitted to other individuals. A
16 proprietor that has reason to believe that an employee may
17 present a public health risk shall immediately notify the
18 proper health authority.

19 510.241 Permit required to operate an affordable
20 residential accommodation; penalties for unlawful
21 establishment or operation; allocation of proceeds.--

22 (1) AFFORDABLE RESIDENTIAL ACCOMMODATIONS; PERMIT
23 REQUIREMENT.--A person who establishes, maintains, or operates
24 an affordable residential accommodation in this state without
25 first having obtained a permit from the department and who
26 fails to post such permit and keep such permit posted in the
27 accommodation to which it applies at all times during
28 maintenance or operation of the accommodation commits a
29 misdemeanor of the first degree, punishable as provided in s.
30 775.082 or s. 775.083. Such permit may not be transferred
31 from one place or individual to another. Local law

1 enforcement agencies shall provide immediate assistance in
2 prosecuting an illegally operating accommodation.

3 (2) PERMITS; ANNUAL RENEWALS.--The department may
4 refuse a permit, or a renewal thereof, to any establishment
5 that is not constructed and maintained in accordance with law
6 and with the rules of the department. The department may
7 refuse to issue a permit, or a renewal thereof, to any
8 affordable residential accommodation a proprietor of which,
9 within the preceding 5 years, has been adjudicated guilty of,
10 or has forfeited a bond when charged with, any crime
11 reflecting on professional character, including soliciting for
12 prostitution, pandering, letting premises for prostitution,
13 keeping a disorderly place, or illegally dealing in controlled
14 substances as defined in chapter 893, whether in this state or
15 in any other jurisdiction within the United States, or has had
16 a permit denied, revoked, or suspended pursuant to s. 400.414.
17 Permits shall be renewed annually, and the department shall
18 adopt a rule establishing a staggered schedule for permit
19 renewals. If any permit expires while administrative charges
20 are pending against the permit, the proceedings against the
21 permit shall continue to conclusion as if the permit were
22 still in effect.

23 (3) APPLICATION FOR PERMIT TO OPERATE AN AFFORDABLE
24 RESIDENTIAL ACCOMMODATION.--Application for a permit to
25 establish, operate, or maintain an affordable residential
26 accommodation must be made to the department in writing on a
27 form and under rules prescribed by the department. The
28 application must state the location of the existing or
29 proposed affordable residential accommodation; the approximate
30 number of persons to be accommodated; and any other
31 information the department requires.

1 (4) DISPLAY OF PERMIT.--Any permit issued by the
2 department shall be conspicuously displayed in the office or
3 lobby of the permitted establishment.

4 (5) AFFORDABLE RESIDENTIAL ACCOMMODATIONS; HEALTH AND
5 SANITATION.--A person who establishes, maintains, or operates
6 any affordable residential accommodation in this state without
7 providing adequate personal hygiene facilities, lighting,
8 sewage disposal, and garbage disposal, and without first
9 having obtained the required permit from the department,
10 commits a felony of the third degree, punishable as provided
11 in s. 775.082, s. 775.083, or s. 775.084.

12 (6) FINE.--The department may impose a fine of up to
13 \$1,000 for each violation of this section. If the owner of
14 land on which a violation of this section occurs is other than
15 the person committing the violation and the owner knew or
16 should have known upon reasonable inquiry that this section
17 was being violated on the land, the fine may be applied
18 against such owner. In determining the amount of the fine to
19 be imposed, the department shall consider any corrective
20 actions taken by the violator and any previous violations.

21 (7) SEIZURE.--

22 (a) In addition to other penalties provided by this
23 section, the buildings, personal property, and land used in
24 connection with a felony violation of this section may be
25 seized and forfeited pursuant to the Contraband Forfeiture
26 Act.

27 (b) After satisfying any liens on the property, the
28 remaining proceeds from the sale of the property seized under
29 this section shall be allocated as follows if the department
30 participated in the inspection or investigation leading to
31 seizure and forfeiture under this section:

1 1. One-third of the proceeds shall be allocated to the
2 law enforcement agency involved in the seizure, to be used as
3 provided in s. 932.7055.

4 2. One-third of the proceeds shall be allocated to the
5 department, to be used for purposes of enforcing the
6 provisions of this section.

7 3. One-third of the proceeds shall be deposited in the
8 Affordable Residential Accommodations Trust Fund.

9 (c) After satisfying any liens on the property, the
10 remaining proceeds from the sale of the property seized under
11 this section shall be allocated equally between the law
12 enforcement agency involved in the seizure and the Affordable
13 Residential Accommodations Trust Fund if the department did
14 not participate in the inspection or investigation leading to
15 seizure and forfeiture.

16 510.245 Prerequisite for issuance of municipal or
17 county occupational permit.--A municipality or county may not
18 issue an occupational permit to any business coming under the
19 provisions of this chapter until a permit has been procured
20 for such business from the department.

21 510.247 Issuance of permit to operate affordable
22 residential accommodations.--If the department is satisfied,
23 after causing an inspection to be made, that the affordable
24 residential accommodation meets the minimum standards of
25 construction, sanitation, equipment, and operation required by
26 rules issued under ss. 510.212-510.221 and that the applicant
27 has paid the application fees required by s. 510.251, it shall
28 issue in the name of the department the necessary permit in
29 writing on a form to be prescribed by the department. The
30 permit, unless sooner revoked, shall expire on September 30
31 next after the date of issuance, and it shall not be

1 transferable. An application for a permit shall be filed with
2 the department 30 days prior to operation. In the case of a
3 facility owned or operated by a public housing authority, or a
4 facility already licensed as a public lodging establishment by
5 the Department of Business and Professional Regulation, an
6 annual satisfactory sanitation inspection of the living units
7 by the Department of Housing and Urban Development shall
8 substitute for the prepermitting inspection required by the
9 department.

10 510.251 Permit fees.--

11 (1) The department shall adopt, by rule, a schedule of
12 fees to be paid by each affordable residential accommodation
13 as a prerequisite to issuance or renewal of a permit. Such
14 fees shall be based on the number of rental units in the
15 accommodation but shall not exceed \$1,000. The fee schedule
16 shall require an accommodation which applies for an initial
17 permit to pay the full permit fee if application is made
18 during the annual renewal period or more than 6 months prior
19 to the next such renewal period and one-half of the fee if
20 application is made 6 months or less prior to such period.

21 (a) Upon making an initial application or an
22 application for change of ownership, the applicant shall pay
23 to the department a fee as prescribed by rule, not to exceed
24 \$50, in addition to any other fees required by law, which
25 shall cover all costs associated with initiating regulation of
26 the accommodation.

27 (b) A permit renewal filed with the department within
28 30 days after the expiration date shall be accompanied by a
29 delinquent fee as prescribed by rule, not to exceed \$50, in
30 addition to the renewal fee and any other fees required by
31 law. Thereafter, a new application is required, accompanied

1 by a reinstatement fee as prescribed by rule, not to exceed
2 \$100, and any other fees required by law.

3 (2)(a) Upon making initial application or an
4 application for change of ownership, the applicant shall pay
5 to the department a fee as prescribed by rule, not to exceed
6 \$50, in addition to any other fees required by law, which
7 shall cover all costs associated with initiating regulation of
8 the accommodation.

9 (b) A permit renewal filed with the department within
10 30 days after the expiration date shall be accompanied by a
11 delinquent fee as prescribed by rule, not to exceed \$50, in
12 addition to the renewal fee and any other fees required by
13 law. Thereafter, a new application is required, accompanied
14 by a reinstatement fee as prescribed by rule, not to exceed
15 \$100, and any other fees required by law.

16 510.261 Revocation or suspension of permits; fines;
17 procedure.--

18 (1) Any affordable residential accommodation that has
19 operated or is operating in violation of this chapter or the
20 rules of the department, operating without a permit, or
21 operating with a suspended or revoked permit may be subject by
22 the department to:

23 (a) Fines not to exceed \$500 per offense.

24 (b) The suspension, revocation, or refusal of a permit
25 issued pursuant to this chapter.

26 (2) For the purposes of this section, the department
27 may regard as a separate offense each day or portion of a day
28 on which an accommodation is operated in violation of a
29 critical law or rule, as that term is defined by rule.

30 (3) The department shall post a prominent
31 closed-for-operation sign on any affordable residential

1 accommodation the permit of which has been suspended or
2 revoked. The department shall also post such sign on any
3 accommodation judicially or administratively determined to be
4 operating without a permit. It is a misdemeanor of the second
5 degree, punishable as provided in s. 775.082 or s. 775.083,
6 for any person to deface or remove such closed-for-operation
7 sign or for any affordable residential accommodation to open
8 for operation without a permit or to open for operation while
9 its permit is suspended or revoked. The department may impose
10 administrative sanctions for violations of this section.

11 (4) All funds received by the department as
12 satisfaction for administrative fines shall be paid into the
13 State Treasury to the credit of the Affordable Residential
14 Accommodations Trust Fund and may not subsequently be used for
15 payment to any entity performing required inspections under
16 contract with the department.

17 (5)(a) A permit may not be suspended under this
18 section for a period of more than 12 months. At the end of
19 such period of suspension, the accommodation may apply for
20 reinstatement or renewal of the permit. An affordable
21 residential accommodation, the permit for which is revoked,
22 may not apply for another permit for that location prior to
23 the date on which the revoked permit would have expired.

24 (b) The department may fine, suspend, or revoke the
25 permit of any affordable residential accommodation if the
26 proprietor knowingly lets, leases, or gives space for unlawful
27 gambling purposes or permits unlawful gambling in such
28 accommodation or in or upon any premises which are used in
29 connection with, and are under the same charge, control, or
30 management as, such accommodation.

31

1 (6) The department may fine, suspend, or revoke the
2 permit of any affordable residential accommodation when:

3 (a) Any person with a direct financial interest in the
4 permitted accommodation, within the preceding 5 years in this
5 state, any other state, or the United States, has been
6 adjudicated guilty of or forfeited a bond when charged with
7 soliciting for prostitution, pandering, letting premises for
8 prostitution, keeping a disorderly place, illegally dealing in
9 controlled substances as defined in chapter 893, or any other
10 crime reflecting on professional character.

11 (b) Such accommodation has been deemed an imminent
12 danger to the public health and safety by the department or
13 local health authority for failure to meet sanitation
14 standards or the premises have been determined by the
15 department or local authority to be unsafe or unfit for human
16 occupancy.

17 (7) A person is not entitled to the issuance of a
18 permit for any affordable residential accommodation except in
19 the discretion of the director when the department has
20 notified the current permitholder for such premises that
21 administrative proceedings have been or will be brought
22 against such current permittee for violation of any provision
23 of this chapter or rule of the department.

24 510.262 Prohibited acts; application.--

25 (1) A proprietor of housing subject to the provisions
26 of this chapter may not, for the purpose of retaliating
27 against a resident of that housing, discriminatorily terminate
28 or discriminatorily modify a tenancy by increasing the
29 resident's rent; decreasing services to the resident; bringing
30 or threatening to bring against the resident an action for
31 eviction or possession or another civil action; refusing to

1 renew the resident's tenancy; or intimidating, threatening,
2 restraining, coercing, blacklisting, or discharging the
3 resident. Examples of conduct for which the proprietor may
4 not retaliate include, but are not limited to, situations in
5 which:

6 (a) The resident has registered a complaint pursuant
7 to s. 510.265.

8 (b) The resident has complained in good faith, orally
9 or in writing, to the proprietor of the housing or any
10 government agency charged with the responsibility of enforcing
11 the provisions of this chapter.

12 (c) The resident has exercised any legal right
13 provided in this chapter with respect to the housing.

14 (d) The resident has organized, encouraged, or
15 participated in a residents' organization.

16 (2) A resident who brings an action for or raises a
17 defense of retaliatory conduct must have acted in good faith.

18 (3) This section does not apply if the proprietor of
19 housing proves that the eviction or other action is for good
20 cause, including, without limitation, a good faith action for
21 nonpayment of rent, a violation of the resident's rental
22 agreement, a violation of reasonable rules of the proprietor
23 of the housing, or a violation of this chapter.

24 (4) "Discrimination" under this section means that a
25 resident is being treated differently as to the rent charged,
26 the services rendered, or the action being taken by the
27 proprietor, which shall be a prerequisite to a finding of
28 retaliatory conduct.

29 510.265 Complaints by aggrieved parties.--Any person
30 who believes that an affordable residential accommodation
31 violates any provision of this chapter or rules adopted

1 thereunder may file a complaint with the department. Upon
2 receipt of the complaint, if the department finds there are
3 reasonable grounds to believe that a violation exists and that
4 the nature of the alleged violation could pose a serious and
5 immediate threat to public health, the department shall
6 conduct an inspection as soon as practicable. In all other
7 cases where the department finds there are reasonable grounds
8 to believe that a violation exists, the department shall
9 notify the proprietor that a complaint has been received and
10 the nature of the complaint. The department shall also advise
11 the proprietor that the alleged violation must be remedied
12 within 20 business days. The department shall conduct an
13 inspection as soon as practicable following such 20-day
14 period. The department shall notify the proprietor and the
15 complainant in writing of the results of the inspection and
16 the action taken. Upon request of the complainant, the
17 department shall conduct the inspection so as to protect the
18 confidentiality of the complainant. The department shall
19 adopt rules to implement this section.

20 510.281 Prosecution for violation; duty of state
21 attorney; penalties.--

22 (1) The department or an agent of the department, upon
23 ascertaining by inspection that any affordable residential
24 accommodation is being operated contrary to the provisions of
25 this chapter, shall make complaint and cause the arrest of the
26 violation, and the state attorney, upon request of the
27 department or agent, shall prepare all necessary papers and
28 conduct the prosecution. The department shall proceed in the
29 courts by mandamus or injunction whenever such proceedings may
30 be necessary to the proper enforcement of the provisions of

31

1 this chapter, of the rules adopted pursuant hereto, or of
2 orders of the department.

3 (2) Any proprietor who obstructs or hinders any agent
4 of the department in the proper discharge of his or her
5 duties; who fails, neglects, or refuses to obtain a permit or
6 pay the permit fee required by law; or who fails or refuses to
7 perform any duty imposed upon it by law or rule commits a
8 misdemeanor of the second degree, punishable as provided in s.
9 775.082 or s. 775.083. Each day that an affordable residential
10 accommodation is operated in violation of law or rule is a
11 separate offense.

12 510.282 Enforcement; citations.--

13 (1) Department personnel may issue citations that
14 contain an order of correction or an order to pay a fine, or
15 both, for violations of this chapter or the field sanitation
16 facility rules adopted by the department when a violation of
17 those sections or rules is enforceable by an administrative or
18 civil remedy, or when a violation of those sections or rules
19 is a misdemeanor of the second degree. A citation issued
20 under this section constitutes a notice of proposed agency
21 action.

22 (2) Citations must be in writing and must describe the
23 particular nature of the violation, including specific
24 reference to the provision of statute or rule allegedly
25 violated.

26 (3) The fines imposed by a citation issued by the
27 department may not exceed \$500 for each violation. Each day
28 the violation exists constitutes a separate violation for
29 which a citation may be issued.

30 (4) The citing official shall inform the recipient, by
31 written notice pursuant to ss. 120.569 and 120.57, of the

1 right to an administrative hearing to contest the citation of
2 the agency within 21 days after the date of receipt of the
3 citation. The citation must contain a conspicuous statement
4 that if the citation recipient fails to pay the fine within
5 the time allowed, or fails to appear to contest the citation
6 after having requested a hearing, the recipient is deemed to
7 have waived the right to contest the citation and must pay an
8 amount up to the maximum fine or penalty.

9 (5) The department may reduce or waive the fine
10 imposed by the citation. In determining whether to reduce or
11 waive the fine, the department must give due consideration to
12 such factors as the gravity of the violation, the good faith
13 of the person who has allegedly committed the violation, and
14 the person's history of previous violations, including
15 violations for which enforcement actions were taken under this
16 section or other provisions of state law.

17 (6) The department shall deposit all fines collected
18 under this chapter in the Affordable Residential
19 Accommodations Trust Fund.

20 510.285 Enforcement; city and county officers to
21 assist.--Any state or county attorney, sheriff, police
22 officer, and any other appropriate municipal and county
23 official shall, upon request, assist the department or any of
24 its agents in the enforcement of this chapter.

25 510.401 Proprietor's right to lockout.--

26 (1) If, upon a reasonable determination by a
27 proprietor of an affordable residential accommodation, a
28 resident has accumulated a large outstanding account at such
29 accommodation, the proprietor may lock the resident out of the
30 resident's dwelling unit and interrupt any utility service for
31 the purpose of requiring the resident to confront the

1 proprietor and pay the outstanding balance of the account or
2 arrange for payment on the account. Such arrangement must be
3 in writing, and a copy must be furnished to the resident.

4 (2) Once the resident has confronted the proprietor
5 and paid the outstanding balance or made arrangements for
6 payment on the account, the proprietor shall provide the
7 resident with unrestricted access to the resident's dwelling
8 unit and shall resume furnishing utility service.

9 (3) The proprietor shall at all times permit the
10 resident to remove from the dwelling unit any items of
11 personal property essential to the health of the resident.

12 (4) Anyone who breaks into a dwelling unit that has
13 been locked in accordance with subsection (1) commits a felony
14 of the third degree, punishable as provided in s. 775.082, s.
15 775.083, or s. 775.084. In any prosecution under this
16 subsection, proof that a resident has entered a dwelling unit
17 which has been locked in accordance with subsection (1) and is
18 delinquent in rental payments constitutes prima facie evidence
19 of such a break-in.

20 (5) A proprietor shall not be held criminally or
21 civilly liable in any action arising out of a lockout or
22 interruption in utility service in accordance with subsection
23 (1).

24 510.402 Proprietor's right to recover premises.--If
25 the resident of an affordable residential accommodation
26 vacates the premises without notice to the proprietor and the
27 proprietor reasonably believes the resident does not intend to
28 satisfy the outstanding account, the proprietor may recover
29 the premises. Upon recovery of the premises, the proprietor
30 shall make an itemized inventory of any property belonging to
31 the resident and store such property until a settlement or a

1 final court judgment is obtained on the resident's outstanding
2 account. Such inventory shall be conducted by the proprietor
3 and at least one other person.

4 510.403 Proprietor's writ of distress.--If, after a
5 lockout has been imposed pursuant to s. 510.401, a resident
6 fails to make agreed-upon payments on an outstanding account,
7 or, notwithstanding s. 510.401, if a resident vacates the
8 premises without making payment on an outstanding account, a
9 proprietor may proceed to prosecute a writ of distress against
10 the resident and the resident's property. The writ of
11 distress shall be predicated on the lien created by s. 713.67
12 or s. 713.68.

13 510.404 Writ of distress; venue and jurisdiction.--The
14 action under s. 510.403 shall be brought in a court of
15 appropriate jurisdiction in the county where the property is
16 located. When property consists of separate articles, the
17 value of any one of which is within the jurisdictional amount
18 of a lower court but which, taken together, exceed that
19 jurisdictional amount, the proprietor may not divide the
20 property to give jurisdiction to the lower court so as to
21 enable the proprietor to bring separate actions therefor.

22 510.405 Complaint; requirements.--To obtain an order
23 authorizing the issuance of a writ of distress upon final
24 judgment, the proprietor must first file with the clerk of the
25 court a complaint reciting and showing the following
26 information:

27 (1) A statement as to the amount of the resident's
28 account at the affordable residential accommodation.

29 (2) A statement that the plaintiff is the proprietor
30 of the affordable residential accommodation in which the
31 resident has an outstanding account. If the proprietor's

1 interest in such account is based on written documents, a copy
2 of such documents shall be attached to the complaint.

3 (3) A statement that the proprietor has reasonably
4 attempted to obtain payment from the resident for an
5 outstanding account, either by confronting the resident or by
6 a lockout pursuant to s. 510.401, and that the resident has
7 failed to make any payment or that the resident has vacated
8 the premises without paying the outstanding account.

9 (4) A statement that the account is outstanding and
10 unpaid by the resident; a statement of the services provided
11 to the resident for which the outstanding account was
12 accumulated; and the cause of such nonpayment according to the
13 best knowledge, information, and belief of the proprietor.

14 (5) A statement as to what property the proprietor is
15 requesting levy against, including the inventory conducted as
16 prescribed by s. 510.402 if the proprietor has recovered the
17 premises, and the authority under which the proprietor has a
18 lien against such property.

19 (6) A statement, to the best of the proprietor's
20 knowledge, that the claimed property has not been taken for a
21 tax, assessment, or fine pursuant to law or taken under an
22 execution or attachment by order of any court.

23 510.406 Prejudgment writ of distress.--

24 (1) A prejudgment writ of distress may issue and the
25 property seized may be delivered forthwith to the plaintiff
26 when the nature of the claim, the amount thereof, and the
27 grounds relied upon for the issuance of the writ clearly
28 appear from specific facts shown by the verified petition or
29 by separate affidavit of the plaintiff.

30 (2) The prejudgment writ of distress may issue if the
31 court finds, pursuant to subsection (1), that the defendant is

1 engaging in, or is about to engage in, conduct that may place
2 the claimed property in danger of destruction, concealment,
3 removal from the state, removal from the jurisdiction of the
4 court, or transfer to an innocent purchaser during the
5 pendency of the action and that the defendant has failed to
6 make payment as agreed.

7 (3) The plaintiff shall post bond in the amount of
8 twice the estimated value of the goods subject to the writ or
9 twice the balance of the outstanding account, whichever is the
10 lesser as determined by the court, as security for the payment
11 of damages the defendant may sustain if the writ is wrongfully
12 obtained.

13 (4) The defendant may obtain release of the property
14 seized under a prejudgment writ of distress by posting bond
15 with surety within 10 days after service of the writ, in the
16 amount of one and one-fourth the claimed outstanding account,
17 for the satisfaction of any judgment which may be rendered
18 against the defendant, conditioned upon delivery of the
19 property if the judgment should require it.

20 (5) A prejudgment writ of distress shall issue only
21 upon a signed order of a circuit court judge or a county court
22 judge. The prejudgment writ of distress shall include a
23 notice of the defendant's right to an immediate hearing before
24 the court issuing the writ.

25 (6) As an alternative to the procedure prescribed in
26 subsection (4), the defendant, by motion filed with the court
27 within 10 days after service of the writ, may obtain the
28 dissolution of a prejudgment writ of distress, unless the
29 plaintiff proves the grounds upon which the writ was issued.
30 The court shall set such motion for an immediate hearing.
31

1 510.407 Writ of distress; levy of writ.--The officer
2 of the court to whom a final judgment writ of distress is
3 directed shall execute the writ of distress by service on
4 defendant and by levy on property distrainable for services
5 rendered, if found within the area of the officer's
6 jurisdiction. If the property is not so found but is in
7 another jurisdiction, the officer shall deliver the writ to
8 the proper authority in the other jurisdiction. The writ
9 shall be executed by levying on such property and delivering
10 it to the officer of the court in which the action is pending,
11 to be disposed of according to law, unless the officer is
12 ordered by such court to hold the property and dispose of it
13 according to law. If the defendant cannot be found, the levy
14 on the property suffices as service if the plaintiff and the
15 officer each file a sworn statement stating that the
16 whereabouts of the defendant are unknown.

17 510.408 Prejudgment writ; form; return.--The
18 prejudgment writ issued under s. 510.406 shall command the
19 officer to whom it may be directed to distrain the described
20 personal property of defendant and hold such property until
21 final judgment is rendered.

22 510.409 Writ; inventory.--When the officer seizes
23 distrainable property, either under s. 510.407 or s. 510.408,
24 and such property is seized on the premises of an affordable
25 residential accommodation, the officer shall inventory the
26 property, hold those items which, upon appraisal, would appear
27 to satisfy the plaintiff's claim, and return the remaining
28 items to the defendant. If the defendant cannot be found, the
29 officer shall hold all items of property. The officer shall
30 release the property only pursuant to law or a court order.

31

1 510.411 Exemptions from writ of distress.--The
2 following property of a resident is exempt from distress and
3 sale under this chapter:

4 (1) From final distress and sale: clothing and items
5 essential to the health and safety of the resident.

6 (2) From prejudgment writ of distress: clothing,
7 items essential to the health and safety of the resident, and
8 any tools of the resident's trade or profession, business
9 papers, or other items directly related to such trade or
10 profession.

11 510.412 Writ; claims by third persons.--Any third
12 person claiming any property distrained pursuant to this
13 chapter may interpose and prosecute a claim for the property
14 in the same manner as is provided in similar cases of claim to
15 property levied on under execution.

16 510.413 Judgment for plaintiff when goods not
17 delivered to defendant.--If it appears that the account stated
18 in the complaint is wrongfully unpaid and the property
19 described in such complaint is the defendant's and was held by
20 the officer executing the prejudgment writ, the plaintiff
21 shall have judgment for damages sustained by the plaintiff,
22 which may include reasonable attorney's fees and costs, by
23 taking title to the defendant's property in the officer's
24 possession or by having the property sold as prescribed in s.
25 510.417.

26 510.414 Judgment for plaintiff when goods retained by
27 or redelivered to defendant.--

28 (1) If it appears that the property was retained by,
29 or redelivered to, the defendant on the defendant's
30 forthcoming bond, either under s. 510.406(4) or (6), the
31 plaintiff shall take judgment for the property, which may

1 include reasonable attorney's fees and costs, and against the
2 defendant and the surety on the forthcoming bond for the value
3 of the outstanding account, and the judgment, which may
4 include reasonable attorney's fees and costs, shall be
5 satisfied by the recovery and sale of the property or the
6 amount adjudged against the defendant and the defendant's
7 surety.

8 (2) After the judgment is rendered, the plaintiff may
9 seek a writ of possession for the property and execution for
10 the plaintiff's costs or have execution against the defendant
11 and the defendant's surety for the amount recovered and costs.
12 If the plaintiff elects to have a writ of possession for the
13 property and the officer is unable to find the property, the
14 plaintiff may immediately have execution against the defendant
15 and the defendant's surety for the whole amount recovered less
16 the value of any property found by the officer. If the
17 plaintiff has execution for the whole amount, the officer
18 shall release all property taken under the writ of possession.

19 (3) In any proceeding to ascertain the value of the
20 property so that judgment for the value may be entered, the
21 value of each article shall be found.

22 510.415 Judgment for defendant when goods are retained
23 by or redelivered to the defendant.--When property has been
24 retained by, or redelivered to, the defendant on the
25 defendant's forthcoming bond or upon the dissolution of a
26 prejudgment writ and the defendant prevails, the defendant
27 shall have judgment against the plaintiff for any damages due
28 for the taking of the property, which may include reasonable
29 attorney's fees and costs. The remedies provided in this
30 section and s. 510.416 do not preclude any other remedies
31 available under the laws of this state.

1 510.416 Judgment for defendant when goods are not
2 retained by or redelivered to the defendant.--If the property
3 has not been retained by, or redelivered to, the defendant and
4 the defendant prevails, judgment shall be entered against the
5 plaintiff for possession of the property. Such judgment may
6 include reasonable attorney's fees and costs. The remedies
7 provided in s. 510.415 and this section do not preclude any
8 other remedies available under the laws of this state.

9 510.417 Writ; sale of property distrained.--

10 (1) If the judgment is for the plaintiff, the property
11 in whole or in part shall, at the plaintiff's option pursuant
12 to s. 510.413 or s. 510.414, be sold and the proceeds applied
13 on the payment of the judgment.

14 (2) At the time any property levied on is sold, it
15 must be advertised two times, the first advertisement being at
16 least 10 days before the sale. All property so levied on may
17 be sold on the premises of the affordable residential
18 accommodation or at the courthouse door.

19 (3) If the defendant appeals and obtains a writ of
20 supersedeas before sale of the property has occurred, the
21 property shall be held by the officer executing the writ, and
22 there may not be a sale or disposition of the property until
23 final judgment is had on appeal.

24 Section 2. This act shall take effect October 1 of the
25 year in which enacted.

26
27 *****

28 LEGISLATIVE SUMMARY

29 Creates the "Florida Affordable Residential
30 Accommodations Act." Provides for affordable housing for
31 the poor. (See bill for details.)