

By Senator Kirkpatrick

5-266-00

See HB 41

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 for use and

18 operation of the Affordable Residential

19 Accommodations Trust Fund; providing for

20 deposit of certain moneys into the fund;

21 providing application; providing duties of the

22 Department of Health; providing for

23 nondiscrimination; providing for form and

24 service of notices; providing for a right of

25 entry; specifying the relationship of resident

26 and proprietor; specifying certain rights;

27 providing for rules; providing for variances;

28 providing penalties; providing for state

29 preemption; providing for establishment of

30 certain rules; providing for notice; requiring

31 maintenance of a register; specifying an

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

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

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

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6 Section 1. Chapter 510, Florida Statutes, consisting
7 of sections 510.011, 510.013, 510.021, 510.032, 510.033,
8 510.034, 510.036, 510.037, 510.038, 510.041, 510.042, 510.101,
9 510.105, 510.111, 510.121, 510.122, 510.123, 510.131, 510.132,
10 510.133, 510.134, 510.136, 510.138, 510.141, 510.142, 510.143,
11 510.151, 510.161, 510.162, 510.191, 510.201, 510.211, 510.212,
12 510.215, 510.221, 510.241, 510.245, 510.247, 510.251, 510.261,
13 510.262, 510.265, 510.281, 510.282, 510.285, 510.401, 510.402,
14 510.403, 510.404, 510.405, 510.406, 510.407, 510.408, 510.409,
15 510.411, 510.412, 510.413, 510.414, 510.415, 510.416, and
16 510.417, Florida Statutes, is created to read:

17 510.011 Short title.--This chapter may be cited as the
18 "Florida Affordable Residential Accommodations Act."

19 510.013 Definitions.--As used in this chapter, unless
20 the context clearly indicates otherwise:

21 (1) "Advance rent" means moneys paid to the proprietor
22 to be applied to future rent payment periods, but does not
23 include rent paid in advance for a current rent payment
24 period.

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

1 or temporary workers and whose proprietor operates such
2 facilities as a private enterprise pursuant to s. 510.038.

3 (b) The following are excluded from the definition in
4 paragraph (a):

5 1. Any dormitory or other living or sleeping facility
6 maintained by a public or private school, college, or
7 university for the use of students, faculty, or visitors;

8 2. Any hospital, nursing home, sanitarium, assisted
9 living facility, adult congregate living facility, or other
10 similar place;

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

14 4. Any dwelling unit licensed under chapter 509,
15 provided, licensed public lodging facilities are presumed to
16 meet all requirements of rules adopted pursuant to ss.
17 510.212, 510.215, and 510.221 for purposes of obtaining a
18 permit to operate an affordable residential accommodation.

19 5. Any migrant labor camp or residential migrant
20 housing permitted under chapter 381.

21 6. Any recreational vehicle park or recreational camp
22 permitted under chapter 514.

23 (3) "Building code," "housing code," and "health code"
24 mean any law, ordinance, or governmental regulation concerning
25 health, safety, sanitation, or fitness for habitation, or the
26 construction, maintenance, operation, occupancy, use, or
27 appearance of any dwelling unit.

28 (4) "Common areas" means that portion of an affordable
29 residential accommodation not included within private living
30 quarters and where residents of affordable residential
31 accommodations generally congregate.

1 (5) "Department" means the Department of Health and
2 its representative county public health units.

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

8 (7) "Director" means the Secretary of the Department
9 of Health.

10 (8) "Dwelling unit" means:

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

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

15 (c) A structure or part of a structure that is
16 furnished, with or without rent, as an incident of employment
17 for use as a home, residence, or sleeping place by one or more
18 persons.

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

21 (10) "Invited resident" means any person who is
22 invited by a resident to an affordable residential
23 accommodation to visit that resident.

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

26 (a) A federal, state, county, or municipal government
27 official;

28 (b) A physician or other health care provider whose
29 sole purpose is to provide medical care or medical
30 information;

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1 (c) A representative of a bona fide religious
2 organization who, during the visit, is engaged in the vocation
3 or occupation of a religious professional or worker such as a
4 minister, priest, or nun and visiting a person known to be a
5 resident;

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

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

13 (12) "Personal hygiene facilities" means adequate
14 facilities for providing hot water at a minimum of 110 degrees
15 Fahrenheit for bathing and dishwashing purposes, and an
16 adequate and convenient approved supply of potable water
17 available at all times in each affordable residential
18 accommodation for drinking, culinary, bathing, dishwashing,
19 and laundry purposes.

20 (13) "Premises" means a dwelling unit and the
21 structure of which it is a part and the appurtenant facilities
22 and grounds, areas, facilities, and property held out for the
23 use of residents of affordable residential accommodations
24 generally.

25 (14) "Private living quarters" means a building or
26 portion of a building, dormitory, or barracks, including its
27 bathroom facilities, or a similar type of sleeping and
28 bathroom area, which is a home, residence, or sleeping place
29 for a resident of an affordable residential accommodation.

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1 (15) "Proprietor" means the owner, proprietor,
2 licensee, lessor, manager, assistant manager, or appointed
3 agent of an affordable residential accommodation.

4 (16) "Rent" means the periodic payments due the
5 proprietor from the resident for a license for the use and
6 occupancy of an affordable residential accommodation under a
7 rental agreement and any other payments due the proprietor
8 from the resident as may be designated as rent in a written
9 rental agreement.

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

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

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

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

27 (21) "Smoke detection device" means an electrical or
28 battery operated device which detects visible or invisible
29 particles of combustion and which is listed by Underwriters
30 Laboratories, Inc., Factory Mutual Laboratories, Inc., or any
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1 other nationally recognized testing laboratory using
2 nationally accepted testing standards.

3 (22) "Tenant" means a resident.

4 510.021 Affordable Residential Accommodations Trust
5 Fund; collection and disposition of moneys received.--The
6 Affordable Residential Accommodations Trust Fund created by HB
7 _____ shall be used for the administration and operation of
8 the department and the carrying out of all laws and rules
9 under the jurisdiction of the department pertaining to the
10 construction, maintenance, and operation of affordable
11 residential accommodations, including the inspection of
12 elevators as required under chapter 399. All funds collected
13 by the department and the amounts paid for permits and fees
14 shall be deposited in the State Treasury into the Affordable
15 Residential Accommodations Trust Fund.

16 510.032 Application.--This chapter applies solely to
17 affordable residential accommodations. The provisions of this
18 chapter may be used only for permitted dwelling units and
19 shall not be used to circumvent the requirements of part II of
20 chapter 83 or part I of chapter 509. This chapter shall not
21 be read in pari materia with part II of chapter 83 or part I
22 of chapter 509.

23 510.033 Duties.--

24 (1) GENERAL.--The department shall carry out all of
25 the provisions of this chapter and all other applicable laws
26 and rules relating to the inspection or regulation of
27 affordable residential accommodations for the purpose of
28 safeguarding the public health, safety, and welfare. The
29 department shall be responsible for ascertaining that a
30 proprietor permitted under this chapter does not engage in any
31 misleading advertising or unethical practices.

1 (2) INSPECTION OF PREMISES.--The department has
2 responsibility and jurisdiction for all inspections required
3 by this chapter. The department has responsibility for
4 quality assurance. Each permitted accommodation shall be
5 inspected at least biannually and at such other times as the
6 department determines is necessary to ensure the public's
7 health, safety, and welfare. The department shall establish a
8 system to determine inspection frequency. If, during the
9 inspection of an affordable residential accommodation, an
10 inspector identifies children or elderly or disabled
11 individuals who appear to be victims of neglect, as defined in
12 chapters 39 and 415, or, in the case of a building that is not
13 equipped with automatic sprinkler systems, residents or
14 clients who may be unable to self-preserve in an emergency,
15 the department shall report the neglect to the central abuse
16 hotline of the Department of Children and Family Services and
17 convene meetings with the following agencies as appropriate to
18 the individual situation: the Department of Elderly Affairs,
19 the area agency on aging, the local fire marshal, the
20 proprietor and affected residents and clients, and other
21 relevant organizations, to develop a plan which improves the
22 prospects for safety of affected residents and, if necessary,
23 identifies alternative living arrangements such as facilities
24 permitted under part II or part III of chapter 400.

25 (3) Reports required.--The department shall send the
26 Governor a written report at the end of each fiscal year,
27 which report shall state, but not be limited to, the total
28 number of inspections conducted by the department to ensure
29 the enforcement of the provisions of this chapter and any
30 recommendations for improved inspection procedures. The
31 department shall also keep accurate account of all expenses

1 arising out of the performance of its duties and all fees
2 collected under this chapter.

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

6 510.034 Nondiscrimination.--

7 (1) The Legislature declares that it is the policy of
8 this state that each county and municipality must permit and
9 encourage the development and use of a sufficient number of
10 affordable residential accommodations to meet local needs.
11 The Legislature further finds that discriminatory practices
12 that inhibit the development of affordable residential
13 accommodations are a matter of state concern.

14 (2) Any proprietor of housing which has qualified for
15 a permit to operate, or who would qualify for a permit based
16 upon plans submitted to the department, or the residents or
17 intended residents of such housing may invoke the provisions
18 of this chapter.

19 (3) A municipality or county may not enact or
20 administer local land use ordinances to prohibit or
21 discriminate against the development and use of affordable
22 residential accommodations because of the occupation, race,
23 sex, color, religion, national origin, or income of the
24 intended residents.

25 (4) This chapter does not prohibit the imposition of
26 local property taxes, water service and garbage collection
27 fees, normal inspection fees, local bond assessments, or other
28 fees, charges, or assessments to which other dwellings of the
29 same type in the same zone are subject.

30 (5) This chapter does not prohibit a municipality or
31 county from extending preferential treatment to affordable

1 residential accommodations, including, without limitation, fee
2 reductions or waivers or changes in architectural
3 requirements, site development or property line requirements,
4 or vehicle parking requirements that reduce the development
5 costs of affordable residential accommodations.

6 (6) The collection of sales tax, tourist development
7 tax, or any other excise tax on the rents paid by residents of
8 affordable residential accommodations is prohibited. The
9 rental of an affordable residential accommodation dwelling
10 unit is not a taxable privilege. This subsection shall not be
11 used to otherwise circumvent the provisions of s. 212.03 by
12 facilities not permitted as affordable residential
13 accommodations, or other taxing statutes.

14 510.036 Notices; form and service.--Each notice served
15 by the department pursuant to this chapter must be in writing
16 and must be delivered personally by an agent of the department
17 or by registered or certified mail to the proprietor of the
18 affordable residential accommodation. If the proprietor
19 refuses to accept service or evades service or the agent is
20 otherwise unable to effect service after due diligence, the
21 department may post such notice in a conspicuous place at the
22 accommodation. Any person who willfully refuses to sign and
23 accept a citation issued by the department commits a
24 misdemeanor of the second degree, punishable as provided in s.
25 775.082 or s. 775.083.

26 510.037 Right of entry.--The department or its
27 inspectors may enter and inspect affordable residential
28 accommodations at reasonable hours and investigate such facts,
29 conditions, and practices or matters as are necessary or
30 appropriate to determine whether any person has violated any
31 provisions of applicable statutes or rules adopted pursuant

1 thereto by the department. The right of entry extends to any
2 premises that the department has reason to believe is being
3 established, maintained, or operated as an affordable
4 residential accommodation without a permit, but such entry may
5 not be made without the permission of the owner, person in
6 charge, or resident thereof, unless an inspection warrant is
7 first obtained from the circuit court authorizing the entry.
8 Any application for a permit made under s. 510.032 constitutes
9 permission for, and complete acquiescence in, any entry or
10 inspection of the premises for which the permit is sought, to
11 verify the information submitted on or in connection with the
12 application; to discover, investigate, and determine the
13 existence of any violation of this chapter or rules adopted
14 under this chapter; or to elicit, receive, respond to, and
15 resolve complaints. Any current valid permit constitutes
16 unconditional permission for, and complete acquiescence in,
17 any entry or inspection of the premises by authorized
18 personnel. The department may from time to time publish the
19 reports of such inspections.

20 510.038 Affordable residential accommodations;
21 relationship of resident and proprietor; rights as private
22 enterprises.--

23 (1) Affordable residential accommodations are private
24 enterprises, and the proprietor has the right to refuse
25 accommodations or service to any person who is objectionable
26 or undesirable to the proprietor, but such refusal may not be
27 based upon race, creed, color, sex, physical disability, or
28 national origin. A person aggrieved by a violation of this
29 chapter or a violation of a rule adopted under this chapter
30 has a right of action pursuant to s. 760.07.

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

3 (3) An affordable residential accommodation licenses
4 the use and occupancy of the premises. The relationship
5 between the resident and the proprietor is that of licensee
6 and licensor.

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

11 (5) A resident shall not achieve the status of
12 residential tenant with property rights in the premises
13 regardless of the length of occupancy.

14 510.041 Rules; variances; penalties.--

15 (1) The department shall adopt rules necessary to
16 protect the health and safety of residents of affordable
17 residential accommodations and to implement the provisions of
18 this chapter. These rules must include provisions relating to
19 plan review of the construction of new, expanded, or remodeled
20 affordable residential accommodations, personal hygiene
21 facilities, lighting, sewage disposal, safety, minimum living
22 space per occupant, bedding, insect and rodent control,
23 garbage, heating equipment, water supply, maintenance and
24 operation of affordable residential accommodations, and such
25 other matters as the department finds to be appropriate or
26 necessary to protect the life and health of the residents.

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

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1 (a) Clearly specify the standard from which the
2 variance is desired;

3 (b) Provide adequate justification that the variance
4 is necessary to obtain a beneficial use of an existing
5 facility and to prevent a practical difficulty or unnecessary
6 hardship; and

7 (c) Clearly set forth the specific alternative
8 measures that the proprietor has taken to protect the health
9 and safety of occupants and adequately show that the
10 alternative measures have achieved the same result as the
11 standard from which the variance is sought.

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13 The provisions of this subsection shall be liberally
14 construed.

15 (3) Any variance granted by the department must be in
16 writing, must state the standard involved, and must state as
17 conditions of the variance the specific alternative measures
18 taken to protect the health and safety of the occupants. In
19 denying the request, the department must provide written
20 notice under ss. 120.569 and 120.57 of the applicant's right
21 to an administrative hearing to contest the denial within 21
22 days after the date of receipt of the notice.

23 (4) The department shall inspect affordable
24 residential accommodations whenever necessary to respond to an
25 emergency or epidemiological condition.

26 510.042 Preemption authority.--The regulation and
27 inspection of affordable residential accommodations is
28 preempted to the state.

29 510.101 Establishment of rules; posting of notice;
30 maintenance of resident register.--

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1 (1) Any proprietor of an affordable residential
2 accommodation may establish reasonable rules and regulations
3 for the management of the accommodation and its residents and
4 employees; and each resident or employee staying, sojourning,
5 or employed in the accommodation shall conform to and abide by
6 such rules and regulations so long as the resident or employee
7 remains in or at the accommodation. Such rules and
8 regulations shall be deemed to be a special contract between
9 the proprietor and each resident or employee using the
10 services or facilities of the proprietor. Such rules and
11 regulations shall control the liabilities, responsibilities,
12 and obligations of all parties. Any rules or regulations
13 established pursuant to this chapter shall be printed and
14 posted in a prominent place within such affordable residential
15 accommodation. Such posting shall also include notice that a
16 current copy of this chapter is available in the office for
17 public review. The proprietor shall review the rules and
18 regulations with each registering tenant at the time of
19 registration and shall provide a copy of such rules and
20 regulations to the residents of each dwelling at the beginning
21 of their initial rental period. Rules and regulations must be
22 in writing, posted, and provided to residents of each dwelling
23 unit in order to be enforceable.

24 (2) It is the duty of each proprietor of an affordable
25 residential accommodation to maintain at all times a register,
26 signed by or for residents who occupy rental units within the
27 accommodation, showing the dates upon which the rental units
28 were occupied by such residents and the rates charged for
29 their occupancy. This register shall be maintained in
30 chronological order and available for inspection by the
31 department at any time. Proprietors need not make available

1 registers which are more than 2 years old. Each proprietor
2 shall maintain at all times a current copy of this chapter in
3 the office of the permitted accommodation which shall be made
4 available to the public upon request. Written rental
5 agreements, if any, must be maintained in the same manner and
6 for the same term as, and must include all information on, the
7 registration.

8 510.105 Obligation of good faith.--Every rental
9 agreement or duty within this part imposes an obligation of
10 good faith in its performance or enforcement.

11 510.111 Disclosure.--

12 (1) The proprietor shall disclose in writing to the
13 residents of each unit, at or before the commencement of the
14 tenancy, the name and address of the proprietor or a person
15 authorized to receive notices and demands in the proprietor's
16 behalf. The person so authorized to receive notices and
17 demands retains authority until the resident is notified
18 otherwise. All notices of changes thereto shall be delivered
19 to the resident's residence or, if specified in writing by the
20 resident, to any other address. The disclosure may be made a
21 part of a rule adopted under s. 510.101(1).

22 (2) The proprietor, upon completion of construction of
23 a building exceeding three stories in height and containing
24 dwelling units, shall disclose to the residents initially
25 moving into the building the availability or lack of
26 availability of fire protection.

27 510.121 Rent; duration of tenancies.--Unless otherwise
28 agreed, rent is payable without demand or notice on the day
29 and hour agreed upon in the rental agreement, periodic rent is
30 payable at the beginning of each rent payment period, and rent
31 is uniformly apportionable from day to day when paid as

1 advance rent, otherwise a daily rate may be charged which may
2 be no more than twice the proportionate rent. Late payment
3 fees may be charged for untimely rent payments not exceeding
4 15 percent of the periodic rent. Late fees may not be applied
5 to daily rates or when a resident is renting by the day.

6 510.122 Room rental rates; posting; advertising;
7 penalties.--

8 (1) In each affordable residential accommodation
9 renting by the day or week there shall be posted in a plainly
10 legible fashion, in a conspicuous place in the rental office
11 of the accommodation, the rates at which each such unit is
12 rented. Such posting shall show the maximum amount charged
13 for occupancy per person, the amount charged for extra
14 conveniences, more complete accommodations, or additional
15 furnishings. Copies of the posted rate schedules for all
16 similar rental units in each accommodation shall be filed with
17 the department at least 5 days before such rates are to become
18 effective and shall be kept current. The rates posted in the
19 accommodation may not exceed those on file with the
20 department, and an accommodation may not charge more than the
21 rates posted in the accommodation and filed with the
22 department.

23 (2)(a) A proprietor may not display or cause to be
24 displayed any sign which may be seen from a public highway or
25 street, which sign includes a statement or numbers relating to
26 the rates charged at an affordable residential accommodation
27 renting by the day or week, unless such sign includes, in
28 letters and figures of similar size and prominence, the
29 following words: "Affordable Residential Accommodations." A
30 sign may not be displayed which includes a statement or
31 numbers which appear to relate to the rate charged at an

1 affordable residential accommodation when in fact the
2 statement or numbers do not relate to such rates. A sign may
3 not be displayed which uses the words "motel," "hotel," or
4 other indications that the facility caters to the traveling
5 public or is licensed under chapter 509, unless there are
6 dwelling units on the premises properly licensed under chapter
7 509.

8 (b) An advertisement may not be published that
9 contains false or misleading statements about any affordable
10 residential accommodation.

11 (3) Any proprietor of any affordable residential
12 accommodation who violates, or causes to be violated, any of
13 the provisions of this section commits a misdemeanor of the
14 second degree, punishable as provided in s. 775.082 or s.
15 775.083. In addition to the criminal penalty, the permit of
16 any affordable residential accommodation may be suspended or
17 revoked by the department, or the department may impose fines
18 on the permit, in accordance with the provisions of s.
19 510.261, when the proprietor of such accommodation is
20 determined by the department to have violated any provision of
21 this section. It is not necessary that the offender be
22 convicted of violating this section as a condition precedent
23 to the suspension or revocation of such license or the
24 imposition of a civil penalty by the department.

25 510.123 Access to affordable residential
26 accommodations by guests.--

27 (1) RIGHT OF ACCESS OF INVITED GUEST.--A resident of
28 an affordable residential accommodation may decide who may
29 visit him or her in the resident's private living quarters. A
30 proprietor may not prohibit or attempt to prohibit an invited
31 guest access to or egress from the private living quarters of

1 the resident who invited the guest by the erection or
2 maintenance of any physical barrier, by physical force or
3 violence, by threat of force or violence, or by any verbal
4 order or notice given in any manner, except for any violation
5 by the guest of s. 510.143. Any invited guest must leave the
6 private living quarters upon the reasonable request of a
7 resident residing within the same private living quarters. No
8 resident shall invite a person onto the premises who has been
9 issued a trespass warrant by a law enforcement officer.

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

27 (3) CIVIL ACTION.--Any person prevented from
28 exercising rights guaranteed by this chapter may bring an
29 action in the appropriate court of the county in which the
30 alleged infringement occurred, and, upon favorable
31 adjudication, the court shall enjoin the enforcement of any

1 rule, practice, or conduct that operates to deprive the person
2 of such rights.

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

6 (5) OTHER RULES.--The proprietor may require invited
7 residents and other visitors to check in before entry and to
8 present picture identification. An affordable residential
9 accommodation may adopt other rules regulating access to an
10 accommodation only if the rules are reasonably related to the
11 purpose of promoting the safety, welfare, or security of
12 residents, visitors, or the proprietor's business.

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

18 (7) LIMITATIONS.--This section does not create a
19 general right of solicitation in affordable residential
20 accommodations. This section does not prohibit the erection
21 or maintenance of a fence around an affordable residential
22 accommodation if one or more unlocked gates or gateways in the
23 fence are provided, nor does this section prohibit posting the
24 land adjacent to an affordable residential accommodation if
25 access to the accommodation is clearly marked, nor does this
26 section restrict residents residing within the same living
27 quarters from imposing reasonable restrictions on their fellow
28 residents to accommodate reasonable privacy and other concerns
29 of the residents.

30 510.131 Proprietor's obligation to maintain
31 premises.--

1 (1) The proprietor at all times during the tenancy
2 shall:
3 (a) Comply with the requirements of this section.
4 (b) Comply with the requirements of applicable
5 building, housing, and health codes. Where there are no
6 applicable building, housing, or health codes, maintain the
7 roofs, windows, screens, doors, floors, steps, porches,
8 exterior walls, foundations, and all other structural
9 components in good repair and capable of resisting normal
10 forces and loads and the plumbing in reasonable working
11 condition.
12
13 The proprietor's obligations under this subsection may be
14 altered or modified in writing with respect to a single-family
15 home or duplex.
16 (2)(a) Unless otherwise agreed in writing, in addition
17 to the requirements of subsection (1), the proprietor of a
18 dwelling unit other than a single-family home or duplex shall,
19 at all times during the tenancy, make reasonable provisions
20 for:
21 1. Locks and keys.
22 2. The clean and safe condition of common areas.
23 3. Garbage removal and outside receptacles therefor.
24 4. Properly functioning facilities for heat during
25 winter, running water, and hot water.
26 5. Floor coverings in good condition for all floors of
27 vinyl, asphalt tile, carpet, or some other commercial floor
28 covering, but not including paint.
29 6. Curtains, drapes, or blinds in good operating
30 condition for all windows in the dwelling unit.
31

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

3 a. Living room, if any: couch, end table, easy chair,
4 lamp.

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

7 c. Kitchen, if any: dining table, seating facilities
8 for each resident in the unit, properly functioning electric
9 or gas range no smaller than 20 inches in width, properly
10 functioning refrigerator with no less than 10 cubic feet of
11 refrigerated area, adequate cabinets, and sink.

12

13 At the sole discretion of the proprietor, residents may
14 provide their own furniture upon request made by the resident.

15 8. The extermination of rats, mice, roaches, ants,
16 wood-destroying organisms, and bed bugs. When vacation of the
17 premises is required for such extermination, the proprietor
18 shall not be liable for damages but shall abate the rent. The
19 resident shall be required to temporarily vacate the premises
20 for a period of time not to exceed 4 days, on 7 days' written
21 notice, if necessary, for extermination pursuant to this
22 subparagraph.

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

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

30 (d) Nothing contained in this subsection prohibits the
31 proprietor from providing in the rental agreement that the

1 resident is obligated for the costs or charges for garbage
2 removal, water, fuel, or utilities when in excess of the
3 allowable amount shown on the rental agreement as the
4 reasonable utility costs for the dwelling unit occupied by the
5 resident.

6 (3) The proprietor is not responsible to the resident
7 under this section for conditions created or caused by the
8 negligent or wrongful act or omission of the resident, a
9 member of his or her family, or other person on the premises
10 with the resident's consent.

11 510.132 Liability for property of residents.--

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

27 (2) The proprietor of an affordable residential
28 accommodation is not liable or responsible to any resident for
29 the loss of wearing apparel, goods, or other property, except
30 as provided in subsection (1), unless such loss occurred as
31 the proximate result of fault or negligence of such

1 proprietor, and, in case of fault or negligence, the
2 proprietor is not liable for a greater sum than \$500, unless
3 the resident, prior to the loss or damage, files with the
4 proprietor an inventory of his or her effects and the value
5 thereof and the proprietor is given the opportunity to inspect
6 such effects and check them against such inventory. The
7 proprietor of an affordable residential accommodation is not
8 liable or responsible to any resident for the loss of effects
9 listed in such inventory in a total amount exceeding \$1,000.

10 510.133 Resident's obligation to maintain dwelling
11 unit.--The resident at all times during the tenancy shall:

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

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

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

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

22 (5) Use and operate in a reasonable manner all
23 electrical, plumbing, sanitary, heating, ventilating,
24 air-conditioning, and other equipment, furniture, and
25 appliances, including elevators.

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

29 (7) Conduct himself or herself, and require other
30 persons on the premises with his or her consent to conduct
31 themselves, in a manner that does not unreasonably disturb the

1 resident's neighbors, the management, or constitute a breach
2 of the peace.

3 510.134 Proprietor's access to dwelling unit.--

4 (1) The resident shall not unreasonably withhold
5 consent between the hours of 7:30 a.m. and 8:00 p.m. to the
6 proprietor to enter the dwelling unit from time to time or on
7 a daily basis in order to inspect the premises; make necessary
8 or agreed repairs, decorations, alterations, or improvements;
9 supply agreed services; or exhibit the dwelling unit to
10 prospective or actual purchasers, mortgagees, residents,
11 workers, or contractors.

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

23 (a) With the consent of the resident;

24 (b) In case of emergency;

25 (c) When the resident unreasonably withholds consent;

26 or

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

1 (e) To enforce the provisions of s. 509.141, s.
2 509.142, or s. 509.143.

3 (f) To grant access to department personnel for the
4 purpose of enforcing the provisions of this chapter.

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

7 510.136 Casualty damage.--If the premises are damaged
8 or destroyed other than by the wrongful or negligent acts of
9 the resident so that the enjoyment of the premises is
10 substantially impaired, the resident may terminate the rental
11 agreement and immediately vacate the premises. The resident
12 may vacate the part of the premises rendered unusable by the
13 casualty, in which case the resident's liability for rent
14 shall be reduced by the fair rental value of that part of the
15 premises damaged or destroyed. If the rental agreement is
16 terminated, the proprietor shall have 15 days to return the
17 security deposit and the unused portion of the rent to the
18 resident.

19 510.138 Right of action for damages.--If either the
20 proprietor or the resident fails to comply with the
21 requirements of the rental agreement or this part, the
22 aggrieved party may recover the damages caused by the
23 noncompliance. Legal fees shall not be assessed against the
24 losing party for any action taken under this chapter.

25 510.141 Refusal of admission and ejection of
26 undesirable residents; notice; procedure; penalties for
27 refusal to leave.--

28 (1) The proprietor of any affordable residential
29 accommodation may remove or cause to be removed from such
30 accommodation, in the manner hereinafter provided, any
31 resident of the accommodation or any visitor who, while on the

1 premises of the accommodation, illegally possesses or deals in
2 controlled substances as defined in chapter 893 or is
3 intoxicated, profane, lewd, or brawling; who indulges in any
4 language or conduct which disturbs the peace and comfort of
5 other residents or which injures the reputation, dignity, or
6 standing of the accommodation; who, in the case of an
7 affordable residential accommodation, fails to make payment of
8 rent at the agreed-upon rental rate by the agreed-upon
9 checkout time; who fails to check out by the time agreed upon
10 in writing by the resident and affordable residential
11 accommodation at check-in unless an extension of time is
12 agreed to by the affordable residential accommodation and
13 resident prior to checkout; who, in the opinion of the
14 proprietor, is a person the continued entertainment of whom
15 would be detrimental to such accommodation. The admission to,
16 or the removal from, such accommodation shall be at the sole
17 discretion of the proprietor but shall not be based upon race,
18 creed, color, sex, physical disability, or national origin.

19 (2) The proprietor of any affordable residential
20 accommodation shall notify such resident or visitor that the
21 accommodation no longer desires to entertain the resident and
22 shall request that such resident or visitor immediately depart
23 from the accommodation. Such notice may be given orally or in
24 writing. If the notice is in writing, it shall be as follows:

25 "You are hereby notified that this
26 accommodation no longer desires to entertain
27 you as (its resident or a visitor on the
28 premises), and you are requested to leave at
29 once. To remain after receipt of this notice
30 is a misdemeanor under the laws of this state."

31

1 If such resident has paid in advance, the accommodation shall,
2 at the time such notice is given, tender to such resident the
3 unused portion of the advance payment; however, the
4 accommodation may withhold payment for each full day that the
5 resident has been entertained at the accommodation for any
6 portion of the 24-hour period of such day. A resident's
7 occupancy of a dwelling until past 8 p.m. constitutes
8 occupancy for an entire day.

9 (3) Any resident or visitor who remains or attempts to
10 remain in any such accommodation after being requested to
11 leave commits a misdemeanor of the second degree, punishable
12 as provided in s. 775.082 or s. 775.083.

13 (4) If any person is illegally on the premises of any
14 affordable residential accommodation, the proprietor of such
15 accommodation may call upon any law enforcement officer of
16 this state for assistance. Upon the request of such
17 proprietor, a law enforcement officer may place under arrest
18 and take into custody for violation of this section any
19 resident or visitor who violates subsection (3). If a warrant
20 has been issued by the proper judicial officer for the arrest
21 of any violator of subsection (3), the officer shall serve the
22 warrant, arrest the person, and take the person into custody.
23 Upon arrest, with or without a warrant, or upon a request by
24 the proprietor to leave the premises, the resident will be
25 deemed to have given up any right to occupancy or to have
26 abandoned such right of occupancy of the premises, and the
27 proprietor of the accommodation may then make such premises
28 available to other residents. However, the proprietor of the
29 accommodation shall employ all reasonable and proper means to
30 care for any personal property which may be left on the
31 premises by such resident and shall refund any unused portion

1 of moneys paid by such resident for the occupancy of such
2 premises. The taking into custody and detention by a law
3 enforcement officer at an affordable residential
4 accommodation, if done in compliance with this subsection,
5 does not render such law enforcement officer criminally or
6 civilly liable for false arrest, false imprisonment, or
7 unlawful detention.

8 510.142 Conduct on premises; refusal of service.--The
9 proprietor of an affordable residential accommodation may
10 refuse amenities or service to any person whose conduct on the
11 premises of the accommodation, in the sole opinion of the
12 proprietor, displays intoxication, profanity, lewdness, or
13 brawling; who indulges in language or conduct such as to
14 disturb the peace or comfort of other residents; who engages
15 in illegal or disorderly conduct; who illegally possesses or
16 deals in controlled substances as defined in chapter 893; or
17 whose conduct constitutes a nuisance. This provision applies
18 to guests, invitees, and licensees. Such refusal may not be
19 based upon race, creed, color, sex, physical disability, or
20 national origin.

21 510.143 Disorderly conduct on the premises of an
22 affordable residential accommodation; detention; arrest;
23 immunity from liability.--

24 (1) A proprietor may take a person into custody and
25 detain that person in a reasonable manner and for a reasonable
26 time if the proprietor has probable cause to believe that the
27 person was engaging in disorderly conduct in violation of s.
28 877.03 on the premises of the permitted accommodation and that
29 such conduct was creating a threat to the life or safety of
30 the person or others. The proprietor shall call a law

31

1 enforcement officer to the scene immediately after detaining a
2 person under this subsection.

3 (2) A law enforcement officer may arrest, either on or
4 off the premises of the permitted accommodation and without a
5 warrant, any person the officer has probable cause to believe
6 violated s. 877.03 on the premises of a permitted
7 accommodation and, in the course of such violation, created a
8 threat to the life or safety of the person or others.

9 (3) A proprietor or a law enforcement officer who
10 detains a person under subsection (1) or makes an arrest under
11 subsection (2) is not civilly or criminally liable for false
12 arrest, false imprisonment, or unlawful detention on the basis
13 of any action taken in compliance with subsection (1) or
14 subsection (2).

15 (4) A person who resists the reasonable efforts of a
16 proprietor or a law enforcement officer to detain or arrest
17 that person in accordance with this section commits a
18 misdemeanor of the first degree, punishable as provided in s.
19 775.082 or s. 775.083, unless the person did not know or did
20 not have reason to know that the person seeking to make such
21 detention or arrest was the proprietor of the accommodation or
22 a law enforcement officer.

23 510.151 Obtaining lodging with intent to defraud;
24 penalty.--

25 (1) Any person who obtains lodging or other amenities
26 having a value of less than \$300 at any affordable residential
27 accommodation, with intent to defraud the proprietor thereof,
28 commits a misdemeanor of the second degree, punishable as
29 provided in s. 775.082 or s. 775.083; if such lodging or other
30 amenities have a value of \$300 or more, such person commits a
31

1 felony of the third degree, punishable as provided in s.
2 775.082, s. 775.083, or s. 775.084.

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

5 510.161 Rules of evidence in prosecutions.--In
6 prosecutions under s. 510.151, proof that lodging or other
7 amenities were obtained by false pretense; by false or
8 fictitious show of baggage or other property; by absconding
9 without paying or offering to pay for such lodging or
10 amenities; or by surreptitiously removing or attempting to
11 remove baggage shall constitute prima facie evidence of
12 fraudulent intent. If the proprietor of the accommodation has
13 probable cause to believe, and does believe, that any person
14 has obtained food, lodging, or other amenities at such
15 accommodation with intent to defraud the proprietor thereof,
16 the failure to make payment upon demand therefor, there being
17 no dispute as to the amount owed, shall constitute prima facie
18 evidence of fraudulent intent in such prosecutions.

19 510.162 Theft of personal property; detaining and
20 arrest of violator; theft by employee.--

21 (1) Any law enforcement officer or proprietor of an
22 affordable residential accommodation who has probable cause to
23 believe that theft of personal property belonging to such
24 accommodation has been committed by a person and that the
25 officer or proprietor can recover such property or the
26 reasonable value thereof by taking the person into custody
27 may, for the purpose of attempting to effect such recovery or
28 for prosecution, take such person into custody on the premises
29 and detain such person in a reasonable manner and for a
30 reasonable period of time. If the proprietor takes the person
31 into custody, a law enforcement officer shall be called to the

1 scene immediately. The taking into custody and detention by a
2 law enforcement officer or proprietor of an affordable
3 residential accommodation, if done in compliance with this
4 subsection, does not render such law enforcement officer or
5 proprietor criminally or civilly liable for false arrest,
6 false imprisonment, or unlawful detention.

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

11 (3) Any person who resists the reasonable effort of a
12 law enforcement officer or proprietor of an affordable
13 residential accommodation to recover property which the law
14 enforcement officer or proprietor had probable cause to
15 believe had been stolen from the affordable residential
16 accommodation, and who is subsequently found to be guilty of
17 theft of the subject property, commits a misdemeanor of the
18 first degree, punishable as provided in s. 775.082 or s.
19 775.083, unless such person did not know, or did not have
20 reason to know, that the person seeking to recover the
21 property was a law enforcement officer or the proprietor. For
22 purposes of this section, the charge of theft and the charge
23 of resisting apprehension may be tried concurrently.

24 (4) Theft of any property belonging to a resident of
25 an accommodation permitted under this chapter, or of property
26 belonging to such accommodation, by an employee of the
27 accommodation or by an employee of a person, firm, or entity
28 which has contracted to provide services to the accommodation
29 constitutes a felony of the third degree, punishable as
30 provided in s. 775.082 or s. 775.083.

31

1 510.191 Unclaimed property.--Any property with an
2 identifiable owner which is left in an affordable residential
3 accommodation, other than property belonging to a resident who
4 has vacated the premises without notice to the proprietor and
5 with an outstanding account, which property remains unclaimed
6 after being held by the establishment for 90 days after
7 written notice to the resident or owner of the property, shall
8 become the property of the accommodation. Property without an
9 identifiable owner which is found in an affordable residential
10 accommodation is subject to the provisions of chapter 705. An
11 affordable residential accommodation may charge a reasonable
12 storage and handling fee for any property which must be
13 stored.

14 510.201 Telephone surcharges by affordable residential
15 accommodations.--

16 (1) An affordable residential accommodation which
17 imposes a surcharge for any telephone call must post notice of
18 such surcharge in a conspicuous place located by each
19 telephone from which a call which is subject to a surcharge
20 may originate. Such notice must be plainly visible and
21 printed on a sign that is not less than 3 inches by 5 inches
22 in size, and such notice shall clearly state if the surcharge
23 applies whether or not the telephone call has been attempted
24 or completed. An affordable residential accommodation which
25 imposes a charge for delivering phone messages to residents
26 must state the charges in the rules of the accommodation.

27 (2) The department may, pursuant to s. 510.261,
28 suspend or revoke the permit of, or impose a fine against, any
29 affordable residential accommodation that violates subsection
30 (1).

31 510.211 Safety regulations.--

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

5 (2) The department, or its agent, shall immediately
6 notify the local firesafety authority or the State Fire
7 Marshal of any major violation of a rule adopted under chapter
8 633 which relates to affordable residential accommodations.
9 The department may impose administrative sanctions for
10 violations of these rules pursuant to s. 510.261 or may refer
11 such violations to the local firesafety authorities for
12 enforcement.

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

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

21 (4) Each affordable residential accommodation three or
22 more stories in height must have safe and secure railings on
23 all balconies, platforms, and stairways, and all such railings
24 must be properly maintained and repaired. The department may
25 impose administrative sanctions for violations of this
26 subsection pursuant to s. 510.261.

27 510.212 Affordable residential accommodations three or
28 more stories in height; inspection rules.--The department is
29 directed to provide rules to require that:

30 (1) Every affordable residential accommodation three
31 or more stories in height in the state file a certificate

1 stating that any and all balconies, platforms, stairways, and
2 railways have been inspected by a person competent to conduct
3 such inspections and are safe, secure, and free of defects.

4 (2) The information required under subsection (1) be
5 filed commencing with licensing, and every 3 years thereafter
6 on January 31, with the department and the applicable county
7 or municipal authority responsible for building and zoning
8 permits.

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

13 510.215 Firesafety.--

14 (1) Any affordable residential accommodation three or
15 more stories in height shall be equipped with an automatic
16 sprinkler system installed in compliance with the provisions
17 prescribed in the National Fire Protection Association
18 publication NFPA No. 13, "Standards for the Installation of
19 Sprinkler Systems." The sprinkler installation may be omitted
20 in closets which are not over 24 square feet in area and in
21 bathrooms which are not over 55 square feet in area, which
22 closets and bathrooms are located in resident rooms. Each
23 resident room shall be equipped with an approved listed
24 single-station smoke detector meeting the minimum requirements
25 of the National Fire Protection Association NFPA 74 "Standards
26 for the Installation, Maintenance and Use of Household Fire
27 Warning Equipment," powered from the building electrical
28 service, notwithstanding the number of stories in the
29 structure or type or means of egress. Single-station smoke
30 detection is not required when resident rooms contain smoke

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1 detectors connected to a central alarm system which also
2 alarms locally.
3 (2) Any affordable residential accommodation three or
4 more stories in height shall be equipped with:
5 (a) A system which complies with subsection (1); or
6 (b) An approved sprinkler system for all interior
7 corridors, public areas, storage rooms, closets, kitchen
8 areas, and laundry rooms, less individual resident rooms, if
9 the following conditions are met:
10 1. There is a minimum 1-hour separation between each
11 resident room and between each resident room and a corridor.
12 2. The building is constructed of noncombustible
13 materials.
14 3. The egress conditions meet the requirements of the
15 National Fire Protection Association, Life Safety Code, NFPA
16 101, s. 5-3.
17 4. The building has a complete automatic fire
18 detection system which meets the requirements of the National
19 Fire Protection Association NFPA 72A and NFPA 72E, including
20 smoke detectors in each resident room individually
21 annunciating to a panel at a supervised location.
22 (3) The provisions for installation of single-station
23 smoke detectors required in subsection (1) and subparagraph
24 (2)(b)4. shall be waived by the Division of State Fire Marshal
25 for any accommodation for which the construction contract was
26 let before October 1, 1983, and which is under three stories
27 in height, if each individual resident room is equipped with a
28 smoke detector approved by the Division of State Fire Marshal
29 and the schedule for compliance is not later than October 1,
30 1986.
31

1 (4) Notwithstanding any other provision of law to the
2 contrary, this section applies only to those affordable
3 residential accommodations in a building wherein more than 50
4 percent of the units in the building are advertised or held
5 out to the public as available for affordable residential
6 accommodation occupancy.

7 (5)(a) Special exceptions to the provisions of this
8 section shall be made for affordable residential
9 accommodations that are listed in the National Register of
10 Historic Places as determined by the United States Department
11 of the Interior or that are of historical significance to this
12 state as determined by the State Historic Preservation
13 Officer, designated pursuant to s. 267.061(5), after
14 consultation with the chair of the local historic preservation
15 board or commission, if such board or commission exists. For
16 such structures, provisions shall be made for a system of fire
17 protection and lifesafety support that would meet the intent
18 of the National Fire Protection Association standards and be
19 acceptable to, and approved by, a commission composed of the
20 director of the department, the director of the Division of
21 State Fire Marshal, and the State Historic Preservation
22 Officer. The director of the Division of State Fire Marshal
23 shall be designated chair of the commission and shall record
24 the minutes of each commission meeting.

25 (6) The Division of State Fire Marshal shall adopt, in
26 accordance with the provisions of chapter 120, any rules
27 necessary for the implementation and enforcement of this
28 section. The Division of State Fire Marshal shall enforce this
29 section in accordance with the provisions of chapter 633, and
30 any establishment licensed under this chapter in violation of
31

1 this section may be subject to administrative sanctions by the
2 department pursuant to s. 510.261.

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

9 (8) The National Fire Protection Association
10 publications referenced in this section are the ones most
11 recently adopted by rule of the Division of State Fire Marshal
12 of the Department of Insurance.

13 510.221 Sanitary regulations.--

14 (1) Each affordable residential accommodation shall be
15 supplied with potable water and shall provide adequate
16 sanitary facilities for the accommodation of its employees and
17 residents. Such facilities may include, but are not limited
18 to, showers, handwash basins, toilets, and bidets. Such
19 sanitary facilities shall be connected to approved plumbing.
20 Such plumbing shall be sized, installed, and maintained in
21 accordance with applicable state and local plumbing codes.
22 Wastewater or sewage shall be properly treated onsite or
23 discharged into an approved sewage collection and treatment
24 system.

25 (2) Each affordable residential accommodation shall
26 maintain not less than one public bathroom for each sex,
27 properly designated, unless otherwise provided by rule. The
28 department shall establish by rule categories of
29 accommodations not subject to the bathroom requirement of this
30 paragraph. Each affordable residential accommodation that does
31 not provide private or connecting bathrooms shall maintain one

1 public bathroom on each floor for every 15 residents, or major
2 fraction of that number, rooming on that floor.

3 (3) Each affordable residential accommodation
4 permitted under this chapter shall be properly lighted,
5 heated, cooled, and ventilated and shall be operated with
6 strict regard to the health, comfort, and safety of the
7 residents. Such proper lighting shall be construed to apply
8 to both daylight and artificial illumination.

9 (4) Each bedroom in an affordable residential
10 accommodation shall have an opening to the outside of the
11 building, air shafts, or courts sufficient to provide adequate
12 ventilation. Where ventilation is provided mechanically, the
13 system shall be capable of providing at least two air changes
14 per hour in all areas served. Where ventilation is provided by
15 windows, each room shall have at least one window opening
16 directly to the outside.

17 (5) The proprietor of any affordable residential
18 accommodation permitted under this chapter shall take
19 effective measures to protect the accommodation against the
20 entrance and the breeding on the premises of all vermin. Any
21 room in such accommodation infested with such vermin shall be
22 fumigated, disinfected, or renovated, or other corrective
23 action shall be taken, until the vermin are exterminated.

24 (6) A person, while suffering from any contagious or
25 communicable disease, while a carrier of such disease, or
26 while afflicted with boils or infected wounds or sores, may
27 not be employed by any accommodation licensed under this
28 chapter in any capacity whereby there is a likelihood such
29 disease could be transmitted to other individuals. A
30 proprietor that has reason to believe that an employee may
31

1 present a public health risk shall immediately notify the
2 county health department.

3 510.241 Permit required to operate an affordable
4 residential accommodation; penalties for unlawful
5 establishment or operation; allocation of proceeds.--

6 (1) AFFORDABLE RESIDENTIAL ACCOMMODATIONS; PERMIT
7 REQUIREMENT.--A person who establishes, maintains, or operates
8 an affordable residential accommodation in this state without
9 first having obtained a permit from the department and who
10 fails to post such permit and keep such permit posted in the
11 accommodation to which it applies at all times during
12 maintenance or operation of the accommodation commits a
13 misdemeanor of the first degree, punishable as provided in s.
14 775.082 or s. 775.083. Such permit may not be transferred
15 from one place or individual to another. Local law
16 enforcement agencies shall provide immediate assistance in
17 prosecuting an illegally operating accommodation.

18 (2) PERMITS; ANNUAL RENEWALS.--The department may
19 refuse a permit, or a renewal thereof, to any establishment
20 that is not constructed and maintained in accordance with law
21 and with the rules of the department. The department may
22 refuse to issue a permit, or a renewal thereof, to any
23 affordable residential accommodation a proprietor of which,
24 within the preceding 5 years, has been adjudicated guilty of,
25 or has forfeited a bond when charged with, any crime
26 reflecting on professional character, including soliciting for
27 prostitution, pandering, letting premises for prostitution,
28 keeping a disorderly place, or illegally dealing in controlled
29 substances as defined in chapter 893, whether in this state or
30 in any other jurisdiction within the United States, or has had
31 a permit denied, revoked, or suspended pursuant to s. 400.414.

1 Permits shall be renewed annually, and the department shall
2 adopt a rule establishing a staggered schedule for permit
3 renewals. If any permit expires while administrative charges
4 are pending against the permit, the proceedings against the
5 permit shall continue to conclusion as if the permit were
6 still in effect.

7 (3) APPLICATION FOR PERMIT TO OPERATE AN AFFORDABLE
8 RESIDENTIAL ACCOMMODATION.--Application for a permit to
9 establish, operate, or maintain an affordable residential
10 accommodation must be made to the department in writing on a
11 form and under rules prescribed by the department. The
12 application must state the location of the existing or
13 proposed affordable residential accommodation; the approximate
14 number of persons to be accommodated; and any other
15 information the department requires.

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

19 (5) AFFORDABLE RESIDENTIAL ACCOMMODATIONS; HEALTH AND
20 SANITATION.--A person who establishes, maintains, or operates
21 any affordable residential accommodation in this state without
22 providing adequate personal hygiene facilities, lighting,
23 sewage disposal, and garbage disposal, and without first
24 having obtained the required permit from the department,
25 commits a felony of the third degree, punishable as provided
26 in s. 775.082, s. 775.083, or s. 775.084.

27 (6) FINE.--The department may impose a fine of up to
28 \$1,000 for each violation of this section. If the owner of
29 land on which a violation of this section occurs is other than
30 the person committing the violation and the owner knew or
31 should have known upon reasonable inquiry that this section

1 was being violated on the land, the fine may be applied
2 against such owner. In determining the amount of the fine to
3 be imposed, the department shall consider any corrective
4 actions taken by the violator and any previous violations.

5 (7) SEIZURE.--

6 (a) In addition to other penalties provided by this
7 section, the buildings, personal property, and land used in
8 connection with a felony violation of this section may be
9 seized and forfeited pursuant to the Contraband Forfeiture
10 Act.

11 (b) After satisfying any liens on the property, the
12 remaining proceeds from the sale of the property seized under
13 this section shall be allocated as follows if the department
14 participated in the inspection or investigation leading to
15 seizure and forfeiture under this section:

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

19 2. One-third of the proceeds shall be allocated to the
20 department, to be used for purposes of enforcing the
21 provisions of this section.

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

24 (c) After satisfying any liens on the property, the
25 remaining proceeds from the sale of the property seized under
26 this section shall be allocated equally between the law
27 enforcement agency involved in the seizure and the Affordable
28 Residential Accommodations Trust Fund if the department did
29 not participate in the inspection or investigation leading to
30 seizure and forfeiture.

31

1 510.245 Prerequisite for issuance of municipal or
2 county occupational permit.--A municipality or county may not
3 issue an occupational permit to any business coming under the
4 provisions of this chapter until a permit has been procured
5 for such business from the department.

6 510.247 Issuance of permit to operate affordable
7 residential accommodations.--If the department is satisfied,
8 after causing an inspection to be made, that the affordable
9 residential accommodation meets the minimum standards of
10 construction, sanitation, equipment, and operation required by
11 rules issued under ss. 510.212-510.221, and that the applicant
12 has paid the application fees required by s. 510.251, it shall
13 issue in the name of the department the necessary permit in
14 writing on a form to be prescribed by the department. The
15 permit, unless sooner revoked, shall expire on September 30
16 next after the date of issuance, and it shall not be
17 transferable. An application for a permit shall be filed with
18 the department 30 days prior to operation. In the case of a
19 facility owned or operated by a public housing authority, or a
20 facility already licensed as a public lodging establishment by
21 the Department of Business and Professional Regulation, an
22 annual satisfactory sanitation inspection of the living units
23 by the Department of Housing and Urban Development shall
24 substitute for the prepermitting inspection required by the
25 department.

26 510.251 Permit fees.--

27 (1) The department shall adopt, by rule, a schedule of
28 fees to be paid by each affordable residential accommodation
29 as a prerequisite to issuance or renewal of a permit. Such
30 fees shall be based on the number of rental units in the
31 accommodation but shall not exceed \$1,000. The fee schedule

1 shall require an accommodation which applies for an initial
2 permit to pay the full permit fee if application is made
3 during the annual renewal period or more than 6 months prior
4 to the next such renewal period and one-half of the fee if
5 application is made 6 months or less prior to such period.

6 (a) Upon making an initial application or an
7 application for change of ownership, the applicant shall pay
8 to the department a fee as prescribed by rule, not to exceed
9 \$50, in addition to any other fees required by law, which
10 shall cover all costs associated with initiating regulation of
11 the accommodation.

12 (b) A permit renewal filed with the department within
13 30 days after the expiration date shall be accompanied by a
14 delinquent fee as prescribed by rule, not to exceed \$50, in
15 addition to the renewal fee and any other fees required by
16 law. Thereafter, a new application is required, accompanied
17 by a reinstatement fee as prescribed by rule, not to exceed
18 \$100, and any other fees required by law.

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

25 (b) A permit renewal filed with the department within
26 30 days after the expiration date shall be accompanied by a
27 delinquent fee as prescribed by rule, not to exceed \$50, in
28 addition to the renewal fee and any other fees required by
29 law. Thereafter, a new application is required, accompanied
30 by a reinstatement fee as prescribed by rule, not to exceed
31 \$100, and any other fees required by law.

1 510.261 Revocation or suspension of permits; fines;
2 procedure.--

3 (1) Any affordable residential accommodation that has
4 operated or is operating in violation of this chapter or the
5 rules of the department, operating without a permit, or
6 operating with a suspended or revoked permit may be subject by
7 the department to:

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

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

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

15 (3) The department shall post a prominent
16 closed-for-operation sign on any affordable residential
17 accommodation the permit of which has been suspended or
18 revoked. The department shall also post such sign on any
19 accommodation judicially or administratively determined to be
20 operating without a permit. It is a misdemeanor of the second
21 degree, punishable as provided in s. 775.082 or s. 775.083,
22 for any person to deface or remove such closed-for-operation
23 sign or for any affordable residential accommodation to open
24 for operation without a permit or to open for operation while
25 its permit is suspended or revoked. The department may impose
26 administrative sanctions for violations of this section.

27 (4) All funds received by the department as
28 satisfaction for administrative fines shall be paid into the
29 State Treasury to the credit of the Affordable Residential
30 Accommodations Trust Fund and may not subsequently be used for
31

1 payment to any entity performing required inspections under
2 contract with the department.

3 (5)(a) A permit may not be suspended under this
4 section for a period of more than 12 months. At the end of
5 such period of suspension, the accommodation may apply for
6 reinstatement or renewal of the permit. An affordable
7 residential accommodation, the permit for which is revoked,
8 may not apply for another permit for that location prior to
9 the date on which the revoked permit would have expired.

10 (b) The department may fine, suspend, or revoke the
11 permit of any affordable residential accommodation if the
12 proprietor knowingly lets, leases, or gives space for unlawful
13 gambling purposes or permits unlawful gambling in such
14 accommodation or in or upon any premises which are used in
15 connection with, and are under the same charge, control, or
16 management as, such accommodation.

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

19 (a) Any person with a direct financial interest in the
20 permitted accommodation, within the preceding 5 years in this
21 state, any other state, or the United States, has been
22 adjudicated guilty of or forfeited a bond when charged with
23 soliciting for prostitution, pandering, letting premises for
24 prostitution, keeping a disorderly place, illegally dealing in
25 controlled substances as defined in chapter 893, or any other
26 crime reflecting on professional character.

27 (b) Such accommodation has been deemed an imminent
28 danger to the public health and safety by the department for
29 failure to meet sanitation standards or the premises have been
30 determined by the department to be unsafe or unfit for human
31 occupancy.

1 (7) A person is not entitled to the issuance of a
2 permit for any affordable residential accommodation except in
3 the discretion of the director when the department has
4 notified the current permitholder for such premises that
5 administrative proceedings have been or will be brought
6 against such current permittee for violation of any provision
7 of this chapter or rule of the department.

8 510.262 Prohibited acts; application.--

9 (1) A proprietor of housing subject to the provisions
10 of this chapter may not, for the purpose of retaliating
11 against a resident of that housing, discriminatorily terminate
12 or discriminatorily modify a tenancy by increasing the
13 resident's rent; decreasing services to the resident; bringing
14 or threatening to bring against the resident an action for
15 eviction or possession or another civil action; refusing to
16 renew the resident's tenancy; or intimidating, threatening,
17 restraining, coercing, blacklisting, or discharging the
18 resident. Examples of conduct for which the proprietor may
19 not retaliate include, but are not limited to, situations in
20 which:

21 (a) The resident has registered a complaint pursuant
22 to s. 510.265.

23 (b) The resident has complained in good faith, orally
24 or in writing, to the proprietor of the housing or any
25 government agency charged with the responsibility of enforcing
26 the provisions of this chapter.

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

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

31

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

3 (3) This section does not apply if the proprietor of
4 housing proves that the eviction or other action is for good
5 cause, including, without limitation, a good faith action for
6 nonpayment of rent, a violation of the resident's rental
7 agreement, a violation of reasonable rules of the proprietor
8 of the housing, or a violation of this chapter.

9 (4) "Discrimination" under this section means that a
10 resident is being treated differently as to the rent charged,
11 the services rendered, or the action being taken by the
12 proprietor, which shall be a prerequisite to a finding of
13 retaliatory conduct.

14 510.265 Complaints by aggrieved parties.--Any person
15 who believes that an affordable residential accommodation
16 violates any provision of this chapter or rules adopted
17 thereunder may file a complaint with the department. Upon
18 receipt of the complaint, if the department finds there are
19 reasonable grounds to believe that a violation exists and that
20 the nature of the alleged violation could pose a serious and
21 immediate threat to public health, the department shall
22 conduct an inspection as soon as practicable. In all other
23 cases where the department finds there are reasonable grounds
24 to believe that a violation exists, the department shall
25 notify the proprietor that a complaint has been received and
26 the nature of the complaint. The department shall also advise
27 the proprietor that the alleged violation must be remedied
28 within 20 business days. The department shall conduct an
29 inspection as soon as practicable following such 20-day
30 period. The department shall notify the proprietor and the
31 complainant in writing of the results of the inspection and

1 the action taken. Upon request of the complainant, the
2 department shall conduct the inspection so as to protect the
3 confidentiality of the complainant. The department shall
4 adopt rules to implement this section.

5 510.281 Prosecution for violation; duty of state
6 attorney; penalties.--

7 (1) The department or an agent of the department, upon
8 ascertaining by inspection that any affordable residential
9 accommodation is being operated contrary to the provisions of
10 this chapter, shall make complaint and cause the arrest of the
11 violation, and the state attorney, upon request of the
12 department or agent, shall prepare all necessary papers and
13 conduct the prosecution. The department shall proceed in the
14 courts by mandamus or injunction whenever such proceedings may
15 be necessary to the proper enforcement of the provisions of
16 this chapter, of the rules adopted pursuant hereto, or of
17 orders of the department.

18 (2) Any proprietor who obstructs or hinders any agent
19 of the department in the proper discharge of his or her
20 duties; who fails, neglects, or refuses to obtain a permit or
21 pay the permit fee required by law; or who fails or refuses to
22 perform any duty imposed upon it by law or rule commits a
23 misdemeanor of the second degree, punishable as provided in s.
24 775.082 or s. 775.083. Each day that an affordable residential
25 accommodation is operated in violation of law or rule is a
26 separate offense.

27 510.282 Enforcement; citations.--

28 (1) Department personnel may issue citations that
29 contain an order of correction or an order to pay a fine, or
30 both, for violations of this chapter or the field sanitation
31 facility rules adopted by the department when a violation of

1 those sections or rules is enforceable by an administrative or
2 civil remedy, or when a violation of those sections or rules
3 is a misdemeanor of the second degree. A citation issued
4 under this section constitutes a notice of proposed agency
5 action.

6 (2) Citations must be in writing and must describe the
7 particular nature of the violation, including specific
8 reference to the provision of statute or rule allegedly
9 violated.

10 (3) The fines imposed by a citation issued by the
11 department may not exceed \$500 for each violation. Each day
12 the violation exists constitutes a separate violation for
13 which a citation may be issued.

14 (4) The citing official shall inform the recipient, by
15 written notice pursuant to ss. 120.569 and 120.57, of the
16 right to an administrative hearing to contest the citation of
17 the agency within 21 days after the date of receipt of the
18 citation. The citation must contain a conspicuous statement
19 that if the citation recipient fails to pay the fine within
20 the time allowed, or fails to appear to contest the citation
21 after having requested a hearing, the recipient is deemed to
22 have waived the right to contest the citation and must pay an
23 amount up to the maximum fine or penalty.

24 (5) The department may reduce or waive the fine
25 imposed by the citation. In determining whether to reduce or
26 wave the fine, the department must give due consideration to
27 such factors as the gravity of the violation, the good faith
28 of the person who has allegedly committed the violation, and
29 the person's history of previous violations, including
30 violations for which enforcement actions were taken under this
31 section or other provisions of state law.

1 (6) The department shall deposit all fines collected
2 under this chapter in the Affordable Residential
3 Accommodations Trust Fund.

4 510.285 Enforcement; city and county officers to
5 assist.--Any state or county attorney, sheriff, police
6 officer, and any other appropriate municipal and county
7 official shall, upon request, assist the department or any of
8 its agents in the enforcement of this chapter.

9 510.401 Proprietor's right to lockout.--

10 (1) If, upon a reasonable determination by a
11 proprietor of an affordable residential accommodation, a
12 resident has accumulated a large outstanding account at such
13 accommodation, the proprietor may lock the resident out of the
14 resident's dwelling unit and interrupt any utility service for
15 the purpose of requiring the resident to confront the
16 proprietor and pay the outstanding balance of the account or
17 arrange for payment on the account. Such arrangement must be
18 in writing, and a copy must be furnished to the resident.

19 (2) Once the resident has confronted the proprietor
20 and paid the outstanding balance or made arrangements for
21 payment on the account, the proprietor shall provide the
22 resident with unrestricted access to the resident's dwelling
23 unit and shall resume furnishing utility service.

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

27 (4) Anyone who breaks into a dwelling unit that has
28 been locked in accordance with subsection (1) commits a felony
29 of the third degree, punishable as provided in s. 775.082, s.
30 775.083, or s. 775.084. In any prosecution under this
31 subsection, proof that a resident has entered a dwelling unit

1 which has been locked in accordance with subsection (1) and is
2 delinquent in rental payments constitutes prima facie evidence
3 of such a break-in.

4 (5) A proprietor shall not be held criminally or
5 civilly liable in any action arising out of a lockout or
6 interruption in utility service in accordance with subsection
7 (1).

8 510.402 Proprietor's right to recover premises.--If
9 the resident of an affordable residential accommodation
10 vacates the premises without notice to the proprietor and the
11 proprietor reasonably believes the resident does not intend to
12 satisfy the outstanding account, the proprietor may recover
13 the premises. Upon recovery of the premises, the proprietor
14 shall make an itemized inventory of any property belonging to
15 the resident and store such property until a settlement or a
16 final court judgment is obtained on the resident's outstanding
17 account. Such inventory shall be conducted by the proprietor
18 and at least one other person.

19 510.403 Proprietor's writ of distress.--If, after a
20 lockout has been imposed pursuant to s. 510.401, a resident
21 fails to make agreed-upon payments on an outstanding account,
22 or, notwithstanding s. 510.401, if a resident vacates the
23 premises without making payment on an outstanding account, a
24 proprietor may proceed to prosecute a writ of distress against
25 the resident and the resident's property. The writ of
26 distress shall be predicated on the lien created by s. 713.67
27 or s. 713.68.

28 510.404 Writ of distress; venue and jurisdiction.--The
29 action under s. 510.403 shall be brought in a court of
30 appropriate jurisdiction in the county where the property is
31 located. When property consists of separate articles, the

1 value of any one of which is within the jurisdictional amount
2 of a lower court but which, taken together, exceed that
3 jurisdictional amount, the proprietor may not divide the
4 property to give jurisdiction to the lower court so as to
5 enable the proprietor to bring separate actions therefor.

6 510.405 Complaint; requirements.--To obtain an order
7 authorizing the issuance of a writ of distress upon final
8 judgment, the proprietor must first file with the clerk of the
9 court a complaint reciting and showing the following
10 information:

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

13 (2) A statement that the plaintiff is the proprietor
14 of the affordable residential accommodation in which the
15 resident has an outstanding account. If the proprietor's
16 interest in such account is based on written documents, a copy
17 of such documents shall be attached to the complaint.

18 (3) A statement that the proprietor has reasonably
19 attempted to obtain payment from the resident for an
20 outstanding account, either by confronting the resident or by
21 a lockout pursuant to s. 510.401, and that the resident has
22 failed to make any payment or that the resident has vacated
23 the premises without paying the outstanding account.

24 (4) A statement that the account is outstanding and
25 unpaid by the resident; a statement of the services provided
26 to the resident for which the outstanding account was
27 accumulated; and the cause of such nonpayment according to the
28 best knowledge, information, and belief of the proprietor.

29 (5) A statement as to what property the proprietor is
30 requesting levy against, including the inventory conducted as
31 prescribed by s. 510.402 if the proprietor has recovered the

1 premises, and the authority under which the proprietor has a
2 lien against such property.

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

7 510.406 Prejudgment writ of distress.--

8 (1) A prejudgment writ of distress may issue and the
9 property seized may be delivered forthwith to the plaintiff
10 when the nature of the claim, the amount thereof, and the
11 grounds relied upon for the issuance of the writ clearly
12 appear from specific facts shown by the verified petition or
13 by separate affidavit of the plaintiff.

14 (2) The prejudgment writ of distress may issue if the
15 court finds, pursuant to subsection (1), that the defendant is
16 engaging in, or is about to engage in, conduct that may place
17 the claimed property in danger of destruction, concealment,
18 removal from the state, removal from the jurisdiction of the
19 court, or transfer to an innocent purchaser during the
20 pendency of the action and that the defendant has failed to
21 make payment as agreed.

22 (3) The plaintiff shall post bond in the amount of
23 twice the estimated value of the goods subject to the writ or
24 twice the balance of the outstanding account, whichever is the
25 lesser as determined by the court, as security for the payment
26 of damages the defendant may sustain if the writ is wrongfully
27 obtained.

28 (4) The defendant may obtain release of the property
29 seized under a prejudgment writ of distress by posting bond
30 with surety within 10 days after service of the writ, in the
31 amount of one and one-fourth the claimed outstanding account,

1 for the satisfaction of any judgment which may be rendered
2 against the defendant, conditioned upon delivery of the
3 property if the judgment should require it.

4 (5) A prejudgment writ of distress shall issue only
5 upon a signed order of a circuit court judge or a county court
6 judge. The prejudgment writ of distress shall include a
7 notice of the defendant's right to an immediate hearing before
8 the court issuing the writ.

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

15 510.407 Writ of distress; levy of writ.--The officer
16 of the court to whom a final judgment writ of distress is
17 directed shall execute the writ of distress by service on
18 defendant and by levy on property distrainable for services
19 rendered, if found within the area of the officer's
20 jurisdiction. If the property is not so found but is in
21 another jurisdiction, the officer shall deliver the writ to
22 the proper authority in the other jurisdiction. The writ
23 shall be executed by levying on such property and delivering
24 it to the officer of the court in which the action is pending,
25 to be disposed of according to law, unless the officer is
26 ordered by such court to hold the property and dispose of it
27 according to law. If the defendant cannot be found, the levy
28 on the property suffices as service if the plaintiff and the
29 officer each file a sworn statement stating that the
30 whereabouts of the defendant are unknown.

31

1 510.408 Prejudgment writ; form; return.--The
2 prejudgment writ issued under s. 510.406 shall command the
3 officer to whom it may be directed to distrain the described
4 personal property of defendant and hold such property until
5 final judgment is rendered.

6 510.409 Writ; inventory.--When the officer seizes
7 distrainable property, either under s. 510.407 or s. 510.408,
8 and such property is seized on the premises of an affordable
9 residential accommodation, the officer shall inventory the
10 property, hold those items which, upon appraisal, would appear
11 to satisfy the plaintiff's claim, and return the remaining
12 items to the defendant. If the defendant cannot be found, the
13 officer shall hold all items of property. The officer shall
14 release the property only pursuant to law or a court order.

15 510.411 Exemptions from writ of distress.--The
16 following property of a resident is exempt from distress and
17 sale under this chapter:

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

20 (2) From prejudgment writ of distress: clothing,
21 items essential to the health and safety of the resident, and
22 any tools of the resident's trade or profession, business
23 papers, or other items directly related to such trade or
24 profession.

25 510.412 Writ; claims by third persons.--Any third
26 person claiming any property distrained pursuant to this
27 chapter may interpose and prosecute a claim for the property
28 in the same manner as is provided in similar cases of claim to
29 property levied on under execution.

30 510.413 Judgment for plaintiff when goods not
31 delivered to defendant.--If it appears that the account stated

1 in the complaint is wrongfully unpaid and the property
2 described in such complaint is the defendant's and was held by
3 the officer executing the prejudgment writ, the plaintiff
4 shall have judgment for damages sustained by the plaintiff,
5 which may include reasonable attorney's fees and costs, by
6 taking title to the defendant's property in the officer's
7 possession or by having the property sold as prescribed in s.
8 510.417.

9 510.414 Judgment for plaintiff when goods retained by
10 or redelivered to defendant.--

11 (1) If it appears that the property was retained by,
12 or redelivered to, the defendant on the defendant's
13 forthcoming bond, either under s. 510.406(4) or (6), the
14 plaintiff shall take judgment for the property, which may
15 include reasonable attorney's fees and costs, and against the
16 defendant and the surety on the forthcoming bond for the value
17 of the outstanding account, and the judgment, which may
18 include reasonable attorney's fees and costs, shall be
19 satisfied by the recovery and sale of the property or the
20 amount adjudged against the defendant and the defendant's
21 surety.

22 (2) After the judgment is rendered, the plaintiff may
23 seek a writ of possession for the property and execution for
24 the plaintiff's costs or have execution against the defendant
25 and the defendant's surety for the amount recovered and costs.
26 If the plaintiff elects to have a writ of possession for the
27 property and the officer is unable to find the property, the
28 plaintiff may immediately have execution against the defendant
29 and the defendant's surety for the whole amount recovered less
30 the value of any property found by the officer. If the
31

1 plaintiff has execution for the whole amount, the officer
2 shall release all property taken under the writ of possession.

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

6 510.415 Judgment for defendant when goods are retained
7 by or redelivered to the defendant.--When property has been
8 retained by, or redelivered to, the defendant on the
9 defendant's forthcoming bond or upon the dissolution of a
10 prejudgment writ and the defendant prevails, the defendant
11 shall have judgment against the plaintiff for any damages due
12 for the taking of the property, which may include reasonable
13 attorney's fees and costs. The remedies provided in this
14 section and s. 510.416 do not preclude any other remedies
15 available under the laws of this state.

16 510.416 Judgment for defendant when goods are not
17 retained by or redelivered to the defendant.--If the property
18 has not been retained by, or redelivered to, the defendant and
19 the defendant prevails, judgment shall be entered against the
20 plaintiff for possession of the property. Such judgment may
21 include reasonable attorney's fees and costs. The remedies
22 provided in s. 510.415 and this section do not preclude any
23 other remedies available under the laws of this state.

24 510.417 Writ; sale of property distrained.--

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

29 (2) At the time any property levied on is sold, it
30 must be advertised two times, the first advertisement being at
31 least 10 days before the sale. All property so levied on may

1 be sold on the premises of the affordable residential
2 accommodation or at the courthouse door.

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

8 Section 2. This act shall take effect October 1, 2000.

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LEGISLATIVE SUMMARY

12

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

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