



501282

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2011	.	
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The Committee on Regulated Industries (Norman) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (2) and subsection (7) of section 509.032, Florida Statutes, are amended to read:

509.032 Duties.—

(2) INSPECTION OF PREMISES.—

(a) The division has responsibility and jurisdiction for all inspections required by this chapter. The division has responsibility for quality assurance. Each licensed establishment shall be inspected at least biannually, except for



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13 transient and nontransient apartments, which shall be inspected  
14 at least annually, and shall be inspected at such other times as  
15 the division determines is necessary to ensure the public's  
16 health, safety, and welfare. The division shall establish a  
17 system to determine inspection frequency. Public lodging units  
18 classified as vacation rentals ~~resort condominiums or resort~~  
19 ~~dwellings~~ are not subject to this requirement, but shall be made  
20 available to the division upon request. If, during the  
21 inspection of a public lodging establishment classified for  
22 renting to transient or nontransient tenants, an inspector  
23 identifies vulnerable adults who appear to be victims of  
24 neglect, as defined in s. 415.102, or, in the case of a building  
25 that is not equipped with automatic sprinkler systems, tenants  
26 or clients who may be unable to self-preserve in an emergency,  
27 the division shall convene meetings with the following agencies  
28 as appropriate to the individual situation: the Department of  
29 Health, the Department of Elderly Affairs, the area agency on  
30 aging, the local fire marshal, the landlord and affected tenants  
31 and clients, and other relevant organizations, to develop a plan  
32 which improves the prospects for safety of affected residents  
33 and, if necessary, identifies alternative living arrangements  
34 such as facilities licensed under part II of chapter 400 or  
35 under chapter 429.

36 (7) PREEMPTION AUTHORITY.—

37 (a) The regulation of public lodging establishments and  
38 public food service establishments, including, but not limited  
39 to, the inspection of public lodging establishments and public  
40 food service establishments for compliance with the sanitation  
41 standards adopted under this section, and the regulation of food



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42 safety protection standards for required training and testing of  
43 food service establishment personnel are preempted to the state.  
44 This paragraph subsection does not preempt the authority of a  
45 local government or local enforcement district to conduct  
46 inspections of public lodging and public food service  
47 establishments for compliance with the Florida Building Code and  
48 the Florida Fire Prevention Code, pursuant to ss. 553.80 and  
49 633.022.

50 (b) Notwithstanding any local law, ordinance, or  
51 regulation, a vacation rental, as described in s. 509.242(1)(c),  
52 is deemed residential property and may not be prohibited or  
53 treated differently than other residential property based solely  
54 on its classification, use, or occupancy.

55 Section 2. Subsection (9) of section 509.221, Florida  
56 Statutes, is amended to read:

57 509.221 Sanitary regulations.—

58 (9) Subsections (2), (5), and (6) do not apply to any  
59 facility or unit classified as a vacation rental or ~~resort~~  
60 ~~condominium~~, nontransient apartment, ~~or resort dwelling~~ as  
61 described in s. 509.242(1)(c) and ~~(d)~~, ~~and (g)~~.

62 Section 3. Subsection (2) of section 509.241, Florida  
63 Statutes, is amended to read:

64 509.241 Licenses required; exceptions.—

65 (2) APPLICATION FOR LICENSE.—Each person who plans to open  
66 a public lodging establishment or a public food service  
67 establishment shall apply for and receive a license from the  
68 division prior to the commencement of operation. A condominium  
69 association, as defined in s. 718.103, which does not own any  
70 units classified as vacation rentals ~~resort condominiums~~ under



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71 s. 509.242(1)(c) is ~~shall~~ not ~~be~~ required to apply for or  
72 receive a public lodging establishment license.

73 Section 4. Subsection (1) of section 509.242, Florida  
74 Statutes, is amended to read:

75 509.242 Public lodging establishments; classifications.—

76 (1) A public lodging establishment shall be classified as a  
77 hotel, motel, ~~resort condominium~~, nontransient apartment,  
78 transient apartment, roominghouse, bed and breakfast inn, or  
79 vacation rental ~~resort dwelling~~ if the establishment satisfies  
80 the following criteria:

81 (a) *Hotel*.—A hotel is any public lodging establishment  
82 containing sleeping room accommodations for 25 or more guests  
83 and providing the services generally provided by a hotel and  
84 recognized as a hotel in the community in which it is situated  
85 or by the industry.

86 (b) *Motel*.—A motel is any public lodging establishment  
87 which offers rental units with an exit to the outside of each  
88 rental unit, daily or weekly rates, offstreet parking for each  
89 unit, a central office on the property with specified hours of  
90 operation, a bathroom or connecting bathroom for each rental  
91 unit, and at least six rental units, and which is recognized as  
92 a motel in the community in which it is situated or by the  
93 industry.

94 (c) *Vacation rental* ~~Resort condominium~~.—A vacation rental  
95 ~~resort condominium~~ is any unit or group of units in a  
96 condominium, cooperative, or timeshare plan or any individually  
97 or collectively owned single-family, two-family, or four-family  
98 house or dwelling unit that is also a transient public lodging  
99 establishment ~~which is rented more than three times in a~~



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100 ~~calendar year for periods of less than 30 days or 1 calendar~~  
101 ~~month, whichever is less, or which is advertised or held out to~~  
102 ~~the public as a place regularly rented for periods of less than~~  
103 ~~30 days or 1 calendar month, whichever is less.~~

104 (d) *Nontransient apartment or roominghouse.*—A nontransient  
105 apartment or roominghouse is a building or complex of buildings  
106 in which 75 percent or more of the units are available for rent  
107 to nontransient tenants.

108 (e) *Transient apartment or roominghouse.*—A transient  
109 apartment or roominghouse is a building or complex of buildings  
110 in which more than 25 percent of the units are advertised or  
111 held out to the public as available for transient occupancy.

112 (f) *Roominghouse.*—A roominghouse is any public lodging  
113 establishment that may not be classified as a hotel, motel,  
114 ~~resort condominium,~~ nontransient apartment, bed and breakfast  
115 inn, vacation rental, or transient apartment under this section.  
116 A roominghouse includes, but is not limited to, a boardinghouse.

117 ~~(g) *Resort dwelling.*—A resort dwelling is any individually~~  
118 ~~or collectively owned one-family, two-family, three-family, or~~  
119 ~~four-family dwelling house or dwelling unit which is rented more~~  
120 ~~than three times in a calendar year for periods of less than 30~~  
121 ~~days or 1 calendar month, whichever is less, or which is~~  
122 ~~advertised or held out to the public as a place regularly rented~~  
123 ~~for periods of less than 30 days or 1 calendar month, whichever~~  
124 ~~is less.~~

125 ~~(g)~~ ~~(h)~~ *Bed and breakfast inn.*—A bed and breakfast inn is a  
126 family home structure, with no more than 15 sleeping rooms,  
127 which has been modified to serve as a transient public lodging  
128 establishment, which provides the accommodation and meal



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129 services generally offered by a bed and breakfast inn, and which  
130 is recognized as a bed and breakfast inn in the community in  
131 which it is situated or by the hospitality industry.

132 Section 5. Subsection (1) of section 509.251, Florida  
133 Statutes, is amended to read:

134 509.251 License fees.—

135 (1) The division shall adopt, by rule, a schedule of fees  
136 to be paid by each public lodging establishment as a  
137 prerequisite to issuance or renewal of a license. Such fees  
138 shall be based on the number of rental units in the  
139 establishment. The aggregate fee per establishment charged any  
140 public lodging establishment shall not exceed \$1,000; however,  
141 the fees described in paragraphs (a) and (b) may not be included  
142 as part of the aggregate fee subject to this cap. Vacation  
143 rental ~~Resort condominium~~ units within separate buildings or at  
144 separate locations but managed by one licensed agent may be  
145 combined in a single license application, and the division shall  
146 charge a license fee as if all units in the application are in a  
147 single licensed establishment. ~~Resort dwelling units may be~~  
148 ~~licensed in the same manner as condominium units.~~ The fee  
149 schedule shall require an establishment which applies for an  
150 initial license to pay the full license fee if application is  
151 made during the annual renewal period or more than 6 months  
152 prior to the next such renewal period and one-half of the fee if  
153 application is made 6 months or less prior to such period. The  
154 fee schedule shall include fees collected for the purpose of  
155 funding the Hospitality Education Program, pursuant to s.  
156 509.302, which are payable in full for each application  
157 regardless of when the application is submitted.



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158 (a) Upon making initial application or an application for  
159 change of ownership, the applicant shall pay to the division a  
160 fee as prescribed by rule, not to exceed \$50, in addition to any  
161 other fees required by law, which shall cover all costs  
162 associated with initiating regulation of the establishment.

163 (b) A license renewal filed with the division within 30  
164 days after the expiration date shall be accompanied by a  
165 delinquent fee as prescribed by rule, not to exceed \$50, in  
166 addition to the renewal fee and any other fees required by law.  
167 A license renewal filed with the division more than 30 but not  
168 more than 60 days after the expiration date shall be accompanied  
169 by a delinquent fee as prescribed by rule, not to exceed \$100,  
170 in addition to the renewal fee and any other fees required by  
171 law.

172 Section 6. Subsection (1) of section 509.291, Florida  
173 Statutes, is amended to read:

174 509.291 Advisory council.—

175 (1) There is created a 10-member advisory council.

176 (a) The Secretary of Business and Professional Regulation  
177 shall appoint six ~~seven~~ voting members to the advisory council.  
178 Each member appointed by the secretary must be an operator of an  
179 establishment licensed under this chapter and shall represent  
180 the industries regulated by the division, except that one member  
181 appointed by the secretary must be a layperson representing the  
182 general public and one member must be a hospitality education  
183 administrator from an institution of higher education of this  
184 state. Such members of the council shall serve staggered terms  
185 of 4 years.

186 (b) The Florida Restaurant and Lodging Association shall



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187 designate one representative to serve as a voting member of the  
188 council. The Florida Vacation Rental Managers Association shall  
189 designate one representative to serve as a voting member of the  
190 council. The Florida Apartment Association and the Florida  
191 Association of Realtors shall each designate one representative  
192 to serve as a voting member of the council.

193 (c) Any member who fails to attend three consecutive  
194 council meetings without good cause may be removed from the  
195 council by the secretary.

196 Section 7. Paragraph (c) of subsection (8) of section  
197 381.008, Florida Statutes, is amended to read:

198 381.008 Definitions of terms used in ss. 381.008-  
199 381.00897.—As used in ss. 381.008-381.00897, the following words  
200 and phrases mean:

201 (8) "Residential migrant housing"—A building, structure,  
202 mobile home, barracks, or dormitory, and any combination thereof  
203 on adjacent property which is under the same ownership,  
204 management, or control, and the land appertaining thereto, that  
205 is rented or reserved for occupancy by five or more seasonal or  
206 migrant farmworkers, except:

207 (c) A hotel or, motel, ~~or resort condominium~~, as described  
208 ~~defined~~ in chapter 509, that is furnished for transient  
209 occupancy.

210 Section 8. Subsection (4) of section 386.203, Florida  
211 Statutes, is amended to read:

212 386.203 Definitions.—As used in this part:

213 (4) "Designated smoking guest rooms at public lodging  
214 establishments" means the sleeping rooms and directly associated  
215 private areas, such as bathrooms, living rooms, and kitchen





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216 areas, if any, rented to guests for their exclusive transient  
217 occupancy in public lodging establishments, including hotels,  
218 motels, vacation rentals ~~resort condominiums~~, transient  
219 apartments, transient lodging establishments, rooming houses,  
220 boarding houses, ~~resort dwellings~~, bed and breakfast inns, and  
221 the like; and designated by the person or persons having  
222 management authority over such public lodging establishment as  
223 rooms in which smoking may be permitted.

224 Section 9. This act shall take effect July 1, 2011.

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226 ===== T I T L E A M E N D M E N T =====

227 And the title is amended as follows:

228 Delete everything before the enacting clause  
229 and insert:

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A bill to be entitled

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An act relating to public lodging establishments;

232

amending s. 509.032, F.S.; conforming provisions to

233

changes made by the act; providing that vacation

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rentals are residential property for purposes of

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provisions related to the treatment of such

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properties; amending ss. 509.221 and 509.241, F.S.;

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conforming provisions to changes made by the act;

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amending s. 509.242, F.S.; providing that public

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lodging establishments formerly classified as resort

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condominiums and resort dwellings are classified as

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vacation rentals; defining the term "vacation rental";

242

amending s. 509.251, F.S.; conforming provisions to

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changes made by the act; amending s. 509.291, F.S.;

244

revising membership of the advisory council of the



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245 Division of Hotels and Restaurants of the Department  
246 of Business and Professional Regulation; requiring the  
247 Florida Vacation Rental Managers Association to  
248 designate a member to serve on the advisory council;  
249 amending ss. 381.008 and 386.203, F.S.; conforming  
250 provisions to changes made by the act; providing an  
251 effective date.