

By Senator Evers

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1 A bill to be entitled
2 An act relating to public lodging establishments;
3 amending s. 509.013, F.S.; revising definitions;
4 amending s. 509.032, F.S.; conforming provisions to
5 changes made by the act; providing that vacation
6 rentals are residential property for purposes of
7 provisions related to the treatment of such
8 properties; amending s. 509.101, F.S.; requiring that
9 the operator of a vacation rental retain any advance
10 payment or deposit made for the vacation rental until
11 the occupancy begins or is cancelled; amending s.
12 509.221, F.S.; clarifying that vacation rentals are
13 exempt from certain sanitary rules; amending s.
14 509.241, F.S.; clarifying an exemption from licensure
15 for condominium associations that do not own vacation
16 rentals; amending s. 509.242, F.S.; providing that
17 public lodging establishments formerly classified as
18 resort condominiums and resort dwellings are
19 classified as vacation rentals and defining the term
20 "vacation rental"; amending s. 509.251, F.S., relating
21 to license fees; conforming provisions to changes made
22 by the act; deleting an obsolete provision; amending
23 s. 509.291, F.S.; increasing the membership of an
24 advisory council to the Division of Hotels and
25 Restaurants of the Department of Business and
26 Professional Regulation; providing for the Florida
27 Vacation Rental Managers Association to appoint a
28 member to the advisory council; providing an effective
29 date.

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

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33 Section 1. Paragraph (a) of subsection (4) of section
34 509.013, Florida Statutes, is amended to read:

35 509.013 Definitions.—As used in this chapter, the term:

36 (4) (a) "Public lodging establishment" includes a transient
37 public lodging establishment as defined in subparagraph 1. and a
38 nontransient public lodging establishment as defined in
39 subparagraph 2.

40 1. "Transient public lodging establishment" means any unit,
41 group of units, dwelling, building, or group of buildings within
42 a single complex of buildings which is rented to guests more
43 than three times in a calendar year for a period of less than
44 181 ~~periods of less than 30 days or 1 calendar month, whichever~~
45 ~~is less,~~ or which is advertised or held out to the public as a
46 place regularly rented to guests.

47 2. "Nontransient public lodging establishment" means any
48 unit, group of units, dwelling, building, or group of buildings
49 within a single complex of buildings which is rented to guests
50 for periods of at least 181 ~~30 days or 1 calendar month,~~
51 ~~whichever is less,~~ or which is advertised or held out to the
52 public as a place regularly rented to guests for periods of at
53 least 181 ~~30 days or 1 calendar month.~~

54
55 License classifications of public lodging establishments, and
56 the definitions therefor, are set out in s. 509.242. For the
57 purpose of licensure, the term does not include condominium
58 common elements as defined in s. 718.103.

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59 Section 2. Paragraph (a) of subsection (2) and subsection
60 (7) of section 509.032, Florida Statutes, are amended to read:
61 509.032 Duties.—

62 (2) INSPECTION OF PREMISES.—

63 (a) The division has responsibility and jurisdiction for
64 all inspections required by this chapter. The division has
65 responsibility for quality assurance. Each licensed
66 establishment shall be inspected at least biannually, except for
67 transient and nontransient apartments, which shall be inspected
68 at least annually, and shall be inspected at such other times as
69 the division determines is necessary to ensure the public's
70 health, safety, and welfare. The division shall establish a
71 system to determine inspection frequency. Public lodging units
72 classified as vacation rentals ~~resort condominiums or resort~~
73 ~~dwellings~~ are not subject to this requirement, but shall be made
74 available to the division upon request. If, during the
75 inspection of a public lodging establishment classified for
76 renting to transient or nontransient tenants, an inspector
77 identifies vulnerable adults who appear to be victims of
78 neglect, as defined in s. 415.102, or, in the case of a building
79 that is not equipped with automatic sprinkler systems, tenants
80 or clients who may be unable to self-preserve in an emergency,
81 the division shall convene meetings with the following agencies
82 as appropriate to the individual situation: the Department of
83 Health, the Department of Elderly Affairs, the area agency on
84 aging, the local fire marshal, the landlord and affected tenants
85 and clients, and other relevant organizations, to develop a plan
86 which improves the prospects for safety of affected residents
87 and, if necessary, identifies alternative living arrangements

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88 such as facilities licensed under part II of chapter 400 or
89 under chapter 429.

90 (7) PREEMPTION AUTHORITY.—

91 (a) The regulation of public lodging establishments and
92 public food service establishments, including, but not limited
93 to, the inspection of public lodging establishments and public
94 food service establishments for compliance with the sanitation
95 standards adopted under this section, and the regulation of food
96 safety protection standards for required training and testing of
97 food service establishment personnel are preempted to the state.
98 This subsection does not preempt the authority of a local
99 government or local enforcement district to conduct inspections
100 of public lodging and public food service establishments for
101 compliance with the Florida Building Code and the Florida Fire
102 Prevention Code, pursuant to ss. 553.80 and 633.022.

103 (b) Notwithstanding any other provision of law to the
104 contrary, vacation rentals, as defined in s. 509.242(1)(c), are
105 deemed residential property and may not be prohibited or treated
106 differently than other residential properties based solely on
107 their classification, use, or occupancy.

108 Section 3. Present subsection (3) of section 509.101,
109 Florida Statutes, is renumbered as subsection (4), and a new
110 subsection (3) is added to that section, to read:

111 509.101 Establishment rules; posting of notice; food
112 service inspection report; maintenance of guest register; mobile
113 food dispensing vehicle registry.—

114 (3) It is the duty of each operator of a vacation rental,
115 as defined in s. 509.242(1)(c), to retain any advance payment or
116 deposit paid by a guest until the occupancy begins or is

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117 cancelled pursuant to any rental agreement or the operator's
118 cancellation rules.

119 Section 4. Subsection (9) of section 509.221, Florida
120 Statutes, is amended to read:

121 509.221 Sanitary regulations.—

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

126 Section 5. Subsection (2) of section 509.241, Florida
127 Statutes, is amended to read:

128 509.241 Licenses required; exceptions.—

129 (2) APPLICATION FOR LICENSE.—Each person who plans to open
130 a public lodging establishment or a public food service
131 establishment shall apply for and receive a license from the
132 division prior to the commencement of operation. A condominium
133 association, as defined in s. 718.103, which does not own any
134 units classified as vacation rentals ~~resort condominiums~~ under
135 s. 509.242(1) (c) is ~~shall not be~~ required to apply for or
136 receive a public lodging establishment license.

137 Section 6. Subsection (1) of section 509.242, Florida
138 Statutes, is amended to read:

139 509.242 Public lodging establishments; classifications.—

140 (1) A public lodging establishment shall be classified as a
141 hotel, motel, ~~resort condominium~~, nontransient apartment,
142 transient apartment, roominghouse, bed and breakfast inn, or
143 vacation rental ~~resort dwelling~~ if the establishment satisfies
144 the following criteria:

145 (a) *Hotel*.—A hotel is any public lodging establishment

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146 containing sleeping room accommodations for 25 or more guests
147 and providing the services generally provided by a hotel and
148 recognized as a hotel in the community in which it is situated
149 or by the industry.

150 (b) *Motel*.—A motel is any public lodging establishment
151 which offers rental units with an exit to the outside of each
152 rental unit, daily or weekly rates, offstreet parking for each
153 unit, a central office on the property with specified hours of
154 operation, a bathroom or connecting bathroom for each rental
155 unit, and at least six rental units, and which is recognized as
156 a motel in the community in which it is situated or by the
157 industry.

158 (c) *Vacation rental Resort condominium*.—A vacation rental
159 is any unit or group of units in a condominium, cooperative, or
160 timeshare plan or any individually or collectively owned single-
161 family, two-family, three-family, or four-family dwelling house
162 or dwelling unit that is also a transient public lodging
163 establishment. ~~A resort condominium is any unit or group of~~
164 ~~units in a condominium, cooperative, or timeshare plan which is~~
165 ~~rented more than three times in a calendar year for periods of~~
166 ~~less than 30 days or 1 calendar month, whichever is less, or~~
167 ~~which is advertised or held out to the public as a place~~
168 ~~regularly rented for periods of less than 30 days or 1 calendar~~
169 ~~month, whichever is less.~~

170 (d) *Nontransient apartment or roominghouse*.—A nontransient
171 apartment or roominghouse is a building or complex of buildings
172 in which 75 percent or more of the units are available for rent
173 to nontransient tenants.

174 (e) *Transient apartment or roominghouse*.—A transient

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175 apartment or roominghouse is a building or complex of buildings
176 in which more than 25 percent of the units are advertised or
177 held out to the public as available for transient occupancy.

178 (f) *Roominghouse*.—A roominghouse is any public lodging
179 establishment that may not be classified as a hotel, motel,
180 resort condominium, nontransient apartment, bed and breakfast
181 inn, or transient apartment under this section. A roominghouse
182 includes, but is not limited to, a boardinghouse.

183 ~~(g) *Resort dwelling*.—A resort dwelling is any individually~~
184 ~~or collectively owned one-family, two-family, three-family, or~~
185 ~~four-family dwelling house or dwelling unit which is rented more~~
186 ~~than three times in a calendar year for periods of less than 30~~
187 ~~days or 1 calendar month, whichever is less, or which is~~
188 ~~advertised or held out to the public as a place regularly rented~~
189 ~~for periods of less than 30 days or 1 calendar month, whichever~~
190 ~~is less.~~

191 (g) ~~(h)~~ *Bed and breakfast inn*.—A bed and breakfast inn is a
192 family home structure, with no more than 15 sleeping rooms,
193 which has been modified to serve as a transient public lodging
194 establishment, which provides the accommodation and meal
195 services generally offered by a bed and breakfast inn, and which
196 is recognized as a bed and breakfast inn in the community in
197 which it is situated or by the hospitality industry.

198 Section 7. Subsection (1) of section 509.251, Florida
199 Statutes, is amended to read:

200 509.251 License fees.—

201 (1) The division shall adopt, by rule, a schedule of fees
202 to be paid by each public lodging establishment as a
203 prerequisite to issuance or renewal of a license. Such fees

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204 shall be based on the number of rental units in the
205 establishment. The aggregate fee per establishment charged any
206 public lodging establishment shall not exceed \$1,000; however,
207 the fees described in paragraphs (a) and (b) may not be included
208 as part of the aggregate fee subject to this cap. Vacation
209 rental ~~Resort condominium~~ units within separate buildings or at
210 separate locations but managed by one licensed agent may be
211 combined in a single license application, and the division shall
212 charge a license fee as if all units in the application are in a
213 single licensed establishment. ~~Resort dwelling units may be~~
214 ~~licensed in the same manner as condominium units.~~ The fee
215 schedule shall require an establishment which applies for an
216 initial license to pay the full license fee if application is
217 made during the annual renewal period or more than 6 months
218 prior to the next such renewal period and one-half of the fee if
219 application is made 6 months or less prior to such period. The
220 fee schedule shall include fees collected for the purpose of
221 funding the Hospitality Education Program, pursuant to s.
222 509.302, which are payable in full for each application
223 regardless of when the application is submitted.

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

229 (b) A license renewal filed with the division within 30
230 days after the expiration date shall be accompanied by a
231 delinquent fee as prescribed by rule, not to exceed \$50, in
232 addition to the renewal fee and any other fees required by law.

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233 A license renewal filed with the division more than 30 but not
234 more than 60 days after the expiration date shall be accompanied
235 by a delinquent fee as prescribed by rule, not to exceed \$100,
236 in addition to the renewal fee and any other fees required by
237 law.

238 Section 8. Subsection (1) of section 509.291, Florida
239 Statutes, is amended to read:

240 509.291 Advisory council.—

241 (1) There is created an 11-member ~~a 10-member~~ advisory
242 council.

243 (a) The Secretary of Business and Professional Regulation
244 shall appoint seven voting members to the advisory council. Each
245 member appointed by the secretary must be an operator of an
246 establishment licensed under this chapter and shall represent
247 the industries regulated by the division, except that one member
248 appointed by the secretary must be a layperson representing the
249 general public and one member must be a hospitality education
250 administrator from an institution of higher education of this
251 state. Such members of the council shall serve staggered terms
252 of 4 years.

253 (b) The Florida Restaurant and Lodging Association shall
254 designate one representative to serve as a voting member of the
255 council. The Florida Vacation Rental Managers Association shall
256 designate one representative to serve as a voting member of the
257 council. The Florida Apartment Association and the Florida
258 Association of Realtors shall each designate one representative
259 to serve as a voting member of the council.

260 (c) Any member who fails to attend three consecutive
261 council meetings without good cause may be removed from the

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262 council by the secretary.

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