

By the Committee on Regulated Industries; and Senator Evers

580-02868-11

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1 A bill to be entitled

2 An act relating to public lodging establishments;
3 amending s. 509.032, F.S.; conforming provisions to
4 changes made by the act; providing that vacation
5 rentals are residential property for purposes of
6 provisions related to the treatment of such
7 properties; amending ss. 509.221 and 509.241, F.S.;
8 conforming provisions to changes made by the act;
9 amending s. 509.242, F.S.; providing that public
10 lodging establishments formerly classified as resort
11 condominiums and resort dwellings are classified as
12 vacation rentals; defining the term "vacation rental";
13 amending s. 509.251, F.S.; conforming provisions to
14 changes made by the act; amending s. 509.261, F.S.;
15 revising mandatory education requirements for certain
16 violations; amending s. 509.291, F.S.; revising
17 membership of the advisory council of the Division of
18 Hotels and Restaurants of the Department of Business
19 and Professional Regulation; requiring the Florida
20 Vacation Rental Managers Association to designate a
21 member to serve on the advisory council; amending ss.
22 381.008 and 386.203, F.S.; conforming provisions to
23 changes made by the act; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (a) of subsection (2) and subsection
28 (7) of section 509.032, Florida Statutes, are amended to read:
29 509.032 Duties.—

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30 (2) INSPECTION OF PREMISES.—

31 (a) The division has responsibility and jurisdiction for
32 all inspections required by this chapter. The division has
33 responsibility for quality assurance. Each licensed
34 establishment shall be inspected at least biannually, except for
35 transient and nontransient apartments, which shall be inspected
36 at least annually, and shall be inspected at such other times as
37 the division determines is necessary to ensure the public's
38 health, safety, and welfare. The division shall establish a
39 system to determine inspection frequency. Public lodging units
40 classified as vacation rentals ~~resort condominiums or resort~~
41 ~~dwellings~~ are not subject to this requirement, but shall be made
42 available to the division upon request. If, during the
43 inspection of a public lodging establishment classified for
44 renting to transient or nontransient tenants, an inspector
45 identifies vulnerable adults who appear to be victims of
46 neglect, as defined in s. 415.102, or, in the case of a building
47 that is not equipped with automatic sprinkler systems, tenants
48 or clients who may be unable to self-preserve in an emergency,
49 the division shall convene meetings with the following agencies
50 as appropriate to the individual situation: the Department of
51 Health, the Department of Elderly Affairs, the area agency on
52 aging, the local fire marshal, the landlord and affected tenants
53 and clients, and other relevant organizations, to develop a plan
54 which improves the prospects for safety of affected residents
55 and, if necessary, identifies alternative living arrangements
56 such as facilities licensed under part II of chapter 400 or
57 under chapter 429.

58 (7) PREEMPTION AUTHORITY.—

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59 (a) The regulation of public lodging establishments and
60 public food service establishments, including, but not limited
61 to, the inspection of public lodging establishments and public
62 food service establishments for compliance with the sanitation
63 standards, inspections, adopted under this section, and the
64 regulation of food safety protection standards for required
65 training and testing of food service establishment personnel,
66 and matters related to the nutritional content and marketing of
67 foods offered in such establishments, are preempted to the
68 state. This paragraph subsection does not preempt the authority
69 of a local government or local enforcement district to conduct
70 inspections of public lodging and public food service
71 establishments for compliance with the Florida Building Code and
72 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
73 633.022.

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

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

81 509.221 Sanitary regulations.—

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

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

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88 509.241 Licenses required; exceptions.—

89 (2) APPLICATION FOR LICENSE.—Each person who plans to open
90 a public lodging establishment or a public food service
91 establishment shall apply for and receive a license from the
92 division prior to the commencement of operation. A condominium
93 association, as defined in s. 718.103, which does not own any
94 units classified as vacation rentals ~~resort condominiums~~ under
95 s. 509.242(1)(c) is ~~shall~~ not ~~be~~ required to apply for or
96 receive a public lodging establishment license.

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

99 509.242 Public lodging establishments; classifications.—

100 (1) A public lodging establishment shall be classified as a
101 hotel, motel, ~~resort condominium~~, nontransient apartment,
102 transient apartment, roominghouse, bed and breakfast inn, or
103 vacation rental ~~resort dwelling~~ if the establishment satisfies
104 the following criteria:

105 (a) *Hotel*.—A hotel is any public lodging establishment
106 containing sleeping room accommodations for 25 or more guests
107 and providing the services generally provided by a hotel and
108 recognized as a hotel in the community in which it is situated
109 or by the industry.

110 (b) *Motel*.—A motel is any public lodging establishment
111 which offers rental units with an exit to the outside of each
112 rental unit, daily or weekly rates, offstreet parking for each
113 unit, a central office on the property with specified hours of
114 operation, a bathroom or connecting bathroom for each rental
115 unit, and at least six rental units, and which is recognized as
116 a motel in the community in which it is situated or by the

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117 industry.

118 (c) Vacation rental ~~Resort condominium~~.—A vacation rental
119 ~~resort condominium~~ is any unit or group of units in a
120 condominium, cooperative, or timeshare plan or any individually
121 or collectively owned single-family, two-family, or four-family
122 house or dwelling unit that is also a transient public lodging
123 establishment which is rented more than three times in a
124 calendar year for periods of less than 30 days or 1 calendar
125 month, whichever is less, or which is advertised or held out to
126 the public as a place regularly rented for periods of less than
127 30 days or 1 calendar month, whichever is less.

128 (d) *Nontransient apartment or roominghouse*.—A nontransient
129 apartment or roominghouse is a building or complex of buildings
130 in which 75 percent or more of the units are available for rent
131 to nontransient tenants.

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

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

141 (g) ~~Resort dwelling~~.—A ~~resort dwelling~~ is any individually
142 ~~or collectively owned one-family, two-family, three-family, or~~
143 ~~four-family dwelling house or dwelling unit which is rented more~~
144 ~~than three times in a calendar year for periods of less than 30~~
145 ~~days or 1 calendar month, whichever is less, or which is~~

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146 ~~advertised or held out to the public as a place regularly rented~~
147 ~~for periods of less than 30 days or 1 calendar month, whichever~~
148 ~~is less.~~

149 (g) ~~(h)~~ *Bed and breakfast inn.*—A bed and breakfast inn is a
150 family home structure, with no more than 15 sleeping rooms,
151 which has been modified to serve as a transient public lodging
152 establishment, which provides the accommodation and meal
153 services generally offered by a bed and breakfast inn, and which
154 is recognized as a bed and breakfast inn in the community in
155 which it is situated or by the hospitality industry.

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

158 509.251 License fees.—

159 (1) The division shall adopt, by rule, a schedule of fees
160 to be paid by each public lodging establishment as a
161 prerequisite to issuance or renewal of a license. Such fees
162 shall be based on the number of rental units in the
163 establishment. The aggregate fee per establishment charged any
164 public lodging establishment shall not exceed \$1,000; however,
165 the fees described in paragraphs (a) and (b) may not be included
166 as part of the aggregate fee subject to this cap. Vacation
167 rental ~~Resort condominium~~ units within separate buildings or at
168 separate locations but managed by one licensed agent may be
169 combined in a single license application, and the division shall
170 charge a license fee as if all units in the application are in a
171 single licensed establishment. ~~Resort dwelling units may be~~
172 ~~licensed in the same manner as condominium units.~~ The fee
173 schedule shall require an establishment which applies for an
174 initial license to pay the full license fee if application is

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175 made during the annual renewal period or more than 6 months
176 prior to the next such renewal period and one-half of the fee if
177 application is made 6 months or less prior to such period. The
178 fee schedule shall include fees collected for the purpose of
179 funding the Hospitality Education Program, pursuant to s.
180 509.302, which are payable in full for each application
181 regardless of when the application is submitted.

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

187 (b) A license renewal filed with the division within 30
188 days after the expiration date shall be accompanied by a
189 delinquent fee as prescribed by rule, not to exceed \$50, in
190 addition to the renewal fee and any other fees required by law.
191 A license renewal filed with the division more than 30 but not
192 more than 60 days after the expiration date shall be accompanied
193 by a delinquent fee as prescribed by rule, not to exceed \$100,
194 in addition to the renewal fee and any other fees required by
195 law.

196 Section 6. Subsection (1) of section 509.261, Florida
197 Statutes, is amended to read:

198 509.261 Revocation or suspension of licenses; fines;
199 procedure.—

200 (1) Any public lodging establishment or public food service
201 establishment that has operated or is operating in violation of
202 this chapter or the rules of the division, operating without a
203 license, or operating with a suspended or revoked license may be

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204 subject by the division to:

205 (a) Fines not to exceed \$1,000 per offense;

206 (b) Mandatory completion attendance, at personal expense,
207 of a remedial at an educational program administered sponsored
208 by a food safety training program provider whose program has
209 been approved by the division, as provided in s. 509.049 the
210 Hospitality Education Program; and

211 (c) The suspension, revocation, or refusal of a license
212 issued pursuant to this chapter.

213 Section 7. Subsection (1) of section 509.291, Florida
214 Statutes, is amended to read:

215 509.291 Advisory council.—

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

217 (a) The Secretary of Business and Professional Regulation
218 shall appoint six ~~seven~~ voting members to the advisory council.
219 Each member appointed by the secretary must be an operator of an
220 establishment licensed under this chapter and shall represent
221 the industries regulated by the division, except that one member
222 appointed by the secretary must be a layperson representing the
223 general public and one member must be a hospitality education
224 administrator from an institution of higher education of this
225 state. Such members of the council shall serve staggered terms
226 of 4 years.

227 (b) The Florida Restaurant and Lodging Association shall
228 designate one representative to serve as a voting member of the
229 council. The Florida Vacation Rental Managers Association shall
230 designate one representative to serve as a voting member of the
231 council. The Florida Apartment Association and the Florida
232 Association of Realtors shall each designate one representative

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233 to serve as a voting member of the council.

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

237 Section 8. Paragraph (c) of subsection (8) of section
238 381.008, Florida Statutes, is amended to read:

239 381.008 Definitions of terms used in ss. 381.008-
240 381.00897.—As used in ss. 381.008-381.00897, the following words
241 and phrases mean:

242 (8) "Residential migrant housing"—A building, structure,
243 mobile home, barracks, or dormitory, and any combination thereof
244 on adjacent property which is under the same ownership,
245 management, or control, and the land appertaining thereto, that
246 is rented or reserved for occupancy by five or more seasonal or
247 migrant farmworkers, except:

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

251 Section 9. Subsection (4) of section 386.203, Florida
252 Statutes, is amended to read:

253 386.203 Definitions.—As used in this part:

254 (4) "Designated smoking guest rooms at public lodging
255 establishments" means the sleeping rooms and directly associated
256 private areas, such as bathrooms, living rooms, and kitchen
257 areas, if any, rented to guests for their exclusive transient
258 occupancy in public lodging establishments, including hotels,
259 motels, vacation rentals ~~resort condominiums~~, transient
260 apartments, transient lodging establishments, rooming houses,
261 boarding houses, ~~resort dwellings~~, bed and breakfast inns, and

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262 the like; and designated by the person or persons having
263 management authority over such public lodging establishment as
264 rooms in which smoking may be permitted.

265 Section 10. This act shall take effect July 1, 2011.