

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

21
22 Be It Enacted by the Legislature of the State of Florida:
23

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

26 509.032 Duties.—

27 (2) INSPECTION OF PREMISES.—

28 (a) The division has responsibility and jurisdiction for

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

55 | (7) PREEMPTION AUTHORITY.—

56 | (a) The regulation of public lodging establishments and

57 public food service establishments, including, but not limited
 58 to, the inspection of public lodging establishments and public
 59 food service establishments for compliance with the sanitation
 60 standards adopted under this section, and the regulation of food
 61 safety protection standards for required training and testing of
 62 food service establishment personnel are preempted to the state.
 63 This paragraph ~~subsection~~ does not preempt the authority of a
 64 local government or local enforcement district to conduct
 65 inspections of public lodging and public food service
 66 establishments for compliance with the Florida Building Code and
 67 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
 68 633.022.

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

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

76 509.221 Sanitary regulations.—

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

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

83 509.241 Licenses required; exceptions.—

84 (2) APPLICATION FOR LICENSE.—Each person who plans to open

85 a public lodging establishment or a public food service
 86 establishment shall apply for and receive a license from the
 87 division prior to the commencement of operation. A condominium
 88 association, as defined in s. 718.103, which does not own any
 89 units classified as vacation rentals ~~resort condominiums~~ under
 90 s. 509.242(1)(c) is ~~shall~~ not ~~be~~ required to apply for or
 91 receive a public lodging establishment license.

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

94 509.242 Public lodging establishments; classifications.—

95 (1) A public lodging establishment shall be classified as
 96 a hotel, motel, ~~resort condominium~~, nontransient apartment,
 97 transient apartment, roominghouse, bed and breakfast inn, or
 98 vacation rental ~~resort dwelling~~ if the establishment satisfies
 99 the following criteria:

100 (a) Hotel.—A hotel is any public lodging establishment
 101 containing sleeping room accommodations for 25 or more guests
 102 and providing the services generally provided by a hotel and
 103 recognized as a hotel in the community in which it is situated
 104 or by the industry.

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

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

123 (d) Nontransient apartment or roominghouse.—A nontransient
 124 apartment or roominghouse is a building or complex of buildings
 125 in which 75 percent or more of the units are available for rent
 126 to nontransient tenants.

127 (e) Transient apartment or roominghouse.—A transient
 128 apartment or roominghouse is a building or complex of buildings
 129 in which more than 25 percent of the units are advertised or
 130 held out to the public as available for transient occupancy.

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

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

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

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

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

153 509.251 License fees.—

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

169 initial license to pay the full license fee if application is
 170 made during the annual renewal period or more than 6 months
 171 prior to the next such renewal period and one-half of the fee if
 172 application is made 6 months or less prior to such period. The
 173 fee schedule shall include fees collected for the purpose of
 174 funding the Hospitality Education Program, pursuant to s.
 175 509.302, which are payable in full for each application
 176 regardless of when the application is submitted.

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

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

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

193 509.291 Advisory council.—

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

195 (a) The Secretary of Business and Professional Regulation
 196 shall appoint six ~~seven~~ voting members to the advisory council.

197 Each member appointed by the secretary must be an operator of an
 198 establishment licensed under this chapter and shall represent
 199 the industries regulated by the division, except that one member
 200 appointed by the secretary must be a layperson representing the
 201 general public and one member must be a hospitality education
 202 administrator from an institution of higher education of this
 203 state. Such members of the council shall serve staggered terms
 204 of 4 years.

205 (b) The Florida Restaurant and Lodging Association shall
 206 designate one representative to serve as a voting member of the
 207 council. The Florida Vacation Rental Managers Association shall
 208 designate one representative to serve as a voting member of the
 209 council. The Florida Apartment Association and the Florida
 210 Association of Realtors shall each designate one representative
 211 to serve as a voting member of the council.

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

215 Section 7. Paragraph (c) of subsection (8) of section
 216 381.008, Florida Statutes, is amended to read:

217 381.008 Definitions of terms used in ss. 381.008-
 218 381.00897.—As used in ss. 381.008-381.00897, the following words
 219 and phrases mean:

220 (8) "Residential migrant housing"—A building, structure,
 221 mobile home, barracks, or dormitory, and any combination thereof
 222 on adjacent property which is under the same ownership,
 223 management, or control, and the land appertaining thereto, that
 224 is rented or reserved for occupancy by five or more seasonal or

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225 migrant farmworkers, except:

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

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

231 386.203 Definitions.—As used in this part:

232 (4) "Designated smoking guest rooms at public lodging
 233 establishments" means the sleeping rooms and directly associated
 234 private areas, such as bathrooms, living rooms, and kitchen
 235 areas, if any, rented to guests for their exclusive transient
 236 occupancy in public lodging establishments, including hotels,
 237 motels, vacation rentals ~~resort condominiums,~~ transient
 238 apartments, transient lodging establishments, rooming houses,
 239 boarding houses, ~~resort dwellings,~~ bed and breakfast inns, and
 240 the like; and designated by the person or persons having
 241 management authority over such public lodging establishment as
 242 rooms in which smoking may be permitted.

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