

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 606

INTRODUCER: Senator Leek

SUBJECT: Public Lodging and Food Service Establishments

DATE: March 31, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

I. Summary:

SB 606 revises the following terms related to public lodging establishments.

The term “transient public lodging establishment” is revised to mean any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 consecutive days or which is advertised or held out to the public as a place regularly rented to guests for periods of less than 30 consecutive days.

The term “nontransient public lodging establishment” is revised to mean any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 consecutive days or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 consecutive days.

Current law does not specify that the rental periods to qualify as a transient or nontransient public lodging establishment are based on consecutive days. The bill also removes references to one calendar month in these definitions.

The terms “transient establishment” and “nontransient establishment” are revised to mean any public lodging establishment that is rented or leased to guests by an operator for transient or nontransient occupancy, respectively. The bill removes the condition that establishment status as transient or nontransient is based on the establishment operator’s intent regarding whether the guest’s stay will be temporary.

The terms “transient occupancy” and “nontransient occupancy” are revised to provide that a guest’s occupancy of a dwelling unit at a hotel, motel, vacation rental, bed and breakfast inn, or timeshare project, as defined in s. 509.242, F.S., is transient or nontransient, respectively, unless a written rental or leasing agreement expressly states that the unit may be the guest’s sole

residence. The bill removes the rebuttable presumption providing that occupancy is a “transient occupancy” or “nontransient occupancy” based on the establishment operator’s intent regarding whether the accommodation will be the guest’s sole residence.

The bill amends the procedure for removal of guests from a public lodging or food establishment to provide that a notice that a guest must depart is effective upon delivery of the notice. It provides that a law enforcement officer may arrest a guest who remains after notice to leave has been provided to the guest.

The bill takes effect July 1, 2025.

II. Present Situation:

Division of Hotels and Restaurants

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR) is the state agency charged with enforcing the provisions of ch. 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

Definitions - Public Lodging Establishments

The term “public lodging establishments” includes transient and non-transient public lodging establishments.¹ The principal differences between transient and non-transient public lodging establishments are the number of times that the establishments are rented in a calendar year and the duration of the rentals.

A public lodging establishment is classified as a hotel, motel, vacation rental, non-transient apartment, transient apartment, bed and breakfast inn, or timeshare project if the establishment satisfies specified criteria.²

A “vacation rental” is defined in s. 509.242(1)(c), F.S., as:

...any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but is not a timeshare project.

Emphasis added.

Section 509.013(2), F.S., defines the term “operator” to mean the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or public food service establishment.

¹ Section 509.013(4)(a), F.S.

² Section 509.242(1), F.S.

Transient Public Lodging Establishment

A “transient public lodging establishment” is defined in s. 509.013(4)(a)1., F.S., as:

...any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. (emphasis added)

“Transient occupancy” means:

...occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.³

A “transient” is a guest in transient occupancy.⁴

Non-Transient Public Lodging Establishment

A “non-transient public lodging establishment” is defined in s. 509.013(4)(a)2., F.S., as:

...any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests for periods of at least 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month. (emphasis added)

Exemptions

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of “public lodging establishment”:

- Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
- Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.;
- Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
- Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or one calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than one calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;

³ Section 509.013(12), F.S.

⁴ Section 509.013(13), F.S.

- Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008 - 381.00895, F.S.;
- Any establishment inspected by the Department of Health and regulated by ch. 513 F.S.;
- Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public;
- Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement; and
- Any rooming house, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, non-transient apartment, bed and breakfast inn, or transient apartment under s. 509.242, F.S.

Public Food Service Establishments

A "public food service establishment" is defined as:

...any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.⁵

There are several exclusions from the definition of public food service establishment, including:

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests;
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests;
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier;
- Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families;
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12, F.S.;
- Any vending machine that dispenses any food or beverage other than potentially hazardous food;
- Any place of business serving only ice, beverages, popcorn, and prepackaged items; and
- Any research and development test kitchen limited to use by employees and not open to the general public.⁶

⁵ Section 509.013(5)(a), F.S.

⁶ Section 509.013(5)(b), F.S.

Refusal of Admission and Ejection of Undesirable Guests

Section 509.141(1), F.S., permits an operator to remove, or cause to be removed, a person for specified causes, including any guest of a public lodging establishment or public food service establishment while on the premises of the establishment who:

- Illegally possesses or deals in controlled substances, as defined in ch. 893, F.S.,
- Is intoxicated, profane, lewd, or brawling;
- Indulges in any language or conduct which disturbs the peace and comfort of other guests or which injures the reputation, dignity, or standing of the establishment;
- Fails to check out by the time agreed upon in writing by the guest and public lodging establishment at check-in unless an extension of time is agreed to by the public lodging establishment and guest prior to check out;
- Fails to make payment for food, beverages, or services; or
- In the opinion of the operator, is a person the continued entertainment of whom would be detrimental to the establishment.

Section 509.141(3), F.S., provides that any guest who remains or attempts to remain in any such establishment after being requested to leave is guilty of a misdemeanor of the second degree.⁷

Section 509.141(4), F.S., provides that any guest who remains “illegally on the premises of any public lodging establishment or public food service establishment, the operator of such establishment may call upon any law enforcement officer of this state for assistance.” Upon request of the operator of the establishment, it is the duty of the law enforcement officer to place the guest under arrest and take the guest into custody.

Section 509.142, F.S., permits an operator to refuse accommodation or service to any person whose conduct on the premises of the establishment:

- Displays intoxication, profanity, lewdness, or brawling;
- Indulges in language or conduct such as to disturb the peace or comfort of other guests;
- Engages in illegal or disorderly conduct;
- Illegally possesses or deals in controlled substances as defined in ch. 893, F.S.; or
- Engages in conduct constituting a nuisance.

Additionally, s. 509.143, F.S., permits an operator to take a person into custody and detain that person in a reasonable manner and for a reasonable time if the operator has probable cause to believe that the person was engaging in disorderly conduct in violation of s. 877.03, F.S.,⁸ on the premises of the licensed establishment and that such conduct was creating a threat to the life or safety of the person or others. The operator is required to call a law enforcement officer to the scene immediately after detaining the person.

⁷ Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S., provides that a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

⁸ Section 877.03, F.S., provides that a person is guilty of a misdemeanor of the second degree if that person commits “such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engages in brawling or fighting, or engages in such conduct as to constitute a breach of the peace or disorderly conduct.”

III. Effect of Proposed Changes:

Definitions

The bill amends s. 509.013, F.S., to revise the following definitions:

- “Transient public lodging establishment,” is revised to specify that the 30-day rental period must be for periods of less than 30 consecutive days. It removes the one-calendar-month qualification and clarifies that an establishment qualifies if advertised or offered for rentals of less than 30 consecutive days.
- “Nontransient public lodging establishment” is revised to mean rentals of at least 30 consecutive days and removing the reference to one-calendar-month. It also allows an establishment to qualify if advertised for rentals for periods of at least 30 consecutive days.
- “Transient establishment” is revised to mean any public lodging establishment that is rented or leased to guests by an operator for transient occupancy, and removing the condition that temporary occupancy is based on the operator’s intent.
- “Transient occupancy” is revised to mirror the changes to the term “transient public lodging establishment” by providing that the term means occupancy that is temporary. It also provides that a guest’s occupancy of a dwelling unit at a hotel, motel, vacation rental, bed and breakfast inn, or timeshare project, as defined in s. 509.242, F.S., is transient unless a written rental or leasing agreement expressly states that the unit may be the guest’s sole residence. The bill removes the rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.
- “Nontransient establishment” is revised to mean any public lodging establishment that is rented or leased to guests by an operator for nontransient occupancy. The bill removes the requirement that the operator intends the unit to be the guest’s sole residence.
- “Nontransient occupancy” is revised to mirror the changes to the term “nontransient public lodging establishment” by providing that the term means occupancy that is not temporary. The bill also provides that a guest’s occupancy of a dwelling unit at a hotel, motel, vacation rental, bed and breakfast inn, or timeshare project, as defined in s. 509.242, F.S., is transient unless a written rental or leasing agreement expressly states that the unit may be the guest’s sole residence. The bill removes the rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient.

For the purpose of incorporating the amendment to s. 509.013, F.S., the bill reenacts the following provisions:

- Section 196.1978(3)(k), F.S., relating to affordable housing property exemption;
- Section 196.199(1)(a), F.S., relating to government property exemption;
- Section 212.031(1)(a), F.S., relating to tax on rental or license fee for use of real property;
- Section 404.056(5), F.S., relating to environmental radiation standards and testing, and notification on real estate documents;
- Section 413.08(1)(c), F.S., relating to defining the term “public accommodation” in the context of rights and responsibilities of an individual with a disability, and penalties;
- Section 480.043(14)(b), (c), and (e), F.S., relating to massage establishments, requisites, licensure inspection, and human trafficking awareness training and policies; and
- Section 559.955(5)(b), F.S., relating to home-based businesses.

Refusal of Admission and Ejection of Undesirable Guests

The bill amends s. 509.141(1), F.S., to provide that the check out time by which a guest's failure to make payment at the agreed-upon rent rate allows the operator to remove a guest is based on check out time specified by the public lodging establishment.

The bill amends s. 509.141(2), F.S., to revise the notice requirement that an operator must give a guest who is directed to immediately depart from a public lodging or food service establishment. The bill provides that the notice is effective upon the operator's delivery of the notice, whether in person, via a telephonic or electronic communications medium using the contact information provided by the guest, or, with respect to a public lodging establishment, upon delivery to the guest's lodging unit.

The bill amends s. 509.141(3), F.S., to provide that if a person remains in the establishment after the operator has requested the person to leave under subsection (2), then the person is guilty of a second degree misdemeanor.⁹

Section 509.141(4) and (5), F.S., is amended to provide that it is the duty of a law enforcement officer to remove a guest upon request of the operator and after notice under subsection (2) rather than requiring the officer to arrest the guest. The officer still may arrest the guest if necessary.

Section 509.141(5), F.S., is revised by the bill to remove the requirement that the violation of s. 509.141(3), F.S., must be in the presence of the officer.

For the purpose of incorporating the amendment to s. 509.013, F.S., the bill reenacts s. 721.13(14), F.S., relating to the management of timeshare projects.

Effective Date

The bill takes effect July 1, 2025.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁹ *Supra* n. 7.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The department has not submitted a fiscal analysis for this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 509.013 and 509.141.

This bill reenacts the following sections of the Florida Statutes: 196.1978, 196.199, 212.031, 404.056, 413.08, 480.043, 559.955, and 721.13.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.