

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 s. 509.221, F.S.;
 7 conforming provisions to changes made by the act; amending
 8 s. 509.241, F.S.; conforming provisions to changes made by
 9 the act; 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; deleting an obsolete provision;
 15 amending s. 509.291, F.S.; amending the membership of an
 16 advisory council to the Division of Hotels and Restaurants
 17 of the Department of Business and Professional Regulation;
 18 providing for the Florida Vacation Rental Managers
 19 Association to appoint a member to the advisory council;
 20 amending ss. 381.008 and 386.203, F.S.; conforming
 21 provisions to changes made by the act; providing an
 22 effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Paragraph (a) of subsection (2) and subsection
 27 (7) of section 509.032, Florida Statutes, are amended to read:
 28 509.032 Duties.—

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ORIGINAL

2011

29 (2) INSPECTION OF PREMISES.—

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

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

57 (7) PREEMPTION AUTHORITY.—
 58 (a) The regulation of public lodging establishments and
 59 public food service establishments, including, but not limited
 60 to, the inspection of public lodging establishments and public
 61 food service establishments for compliance with the sanitation
 62 standards adopted under this section, and the regulation of food
 63 safety protection standards for required training and testing of
 64 food service establishment personnel are preempted to the state.
 65 This paragraph ~~subsection~~ does not preempt the authority of a
 66 local government or local enforcement district to conduct
 67 inspections of public lodging and public food service
 68 establishments for compliance with the Florida Building Code and
 69 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
 70 633.022.

71 (b) Vacation rentals, as described in s. 509.242(1)(c),
 72 are deemed residential property. A local law, ordinance, or
 73 regulation may not prohibit vacation rentals or treat vacation
 74 rentals differently from other residential properties based
 75 solely on their classification, use, or occupancy.

76 Section 2. Subsection (2) of section 509.241, Florida
 77 Statutes, is amended to read:

78 509.241 Licenses required; exceptions.—

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

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

87 Section 3. Subsection (1) of section 509.242, Florida
 88 Statutes, is amended to read:

89 509.242 Public lodging establishments; classifications.—

90 (1) A public lodging establishment shall be classified as
 91 a hotel, motel, ~~resort condominium~~, nontransient apartment,
 92 transient apartment, roominghouse, bed and breakfast inn, or
 93 vacation rental ~~resort dwelling~~ if the establishment satisfies
 94 the following criteria:

95 (a) *Hotel*.—A hotel is any public lodging establishment
 96 containing sleeping room accommodations for 25 or more guests
 97 and providing the services generally provided by a hotel and
 98 recognized as a hotel in the community in which it is situated
 99 or by the industry.

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

108 (c) *Vacation rental* ~~*Resort condominium*~~.—A vacation rental
 109 is any unit or group of units in a condominium, cooperative, or
 110 timeshare plan or any individually or collectively owned single-
 111 family, two-family, three-family, or four-family dwelling house
 112 or dwelling unit that is also a transient public lodging

113 establishment. ~~A resort condominium is any unit or group of~~
 114 ~~units in a condominium, cooperative, or timeshare plan which is~~
 115 ~~rented more than three times in a calendar year for periods of~~
 116 ~~less than 30 days or 1 calendar month, whichever is less, or~~
 117 ~~which is advertised or held out to the public as a place~~
 118 ~~regularly rented for periods of less than 30 days or 1 calendar~~
 119 ~~month, whichever is less.~~

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

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

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

133 ~~(g) *Resort dwelling.*—A resort dwelling is any individually~~
 134 ~~or collectively owned one-family, two-family, three-family, or~~
 135 ~~four-family dwelling house or dwelling unit which is rented more~~
 136 ~~than three times in a calendar year for periods of less than 30~~
 137 ~~days or 1 calendar month, whichever is less, or which is~~
 138 ~~advertised or held out to the public as a place regularly rented~~
 139 ~~for periods of less than 30 days or 1 calendar month, whichever~~
 140 ~~is less.~~

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

148 Section 4. Subsection (1) of section 509.251, Florida
 149 Statutes, is amended to read:

150 509.251 License fees.—

151 (1) The division shall adopt, by rule, a schedule of fees
 152 to be paid by each public lodging establishment as a
 153 prerequisite to issuance or renewal of a license. Such fees
 154 shall be based on the number of rental units in the
 155 establishment. The aggregate fee per establishment charged any
 156 public lodging establishment shall not exceed \$1,000; however,
 157 the fees described in paragraphs (a) and (b) may not be included
 158 as part of the aggregate fee subject to this cap. Vacation
 159 rental ~~Resort condominium~~ units within separate buildings or at
 160 separate locations but managed by one licensed agent may be
 161 combined in a single license application, and the division shall
 162 charge a license fee as if all units in the application are in a
 163 single licensed establishment. ~~Resort dwelling units may be~~
 164 ~~licensed in the same manner as condominium units.~~ The fee
 165 schedule shall require an establishment which applies for an
 166 initial license to pay the full license fee if application is
 167 made during the annual renewal period or more than 6 months
 168 prior to the next such renewal period and one-half of the fee if

169 application is made 6 months or less prior to such period. The
 170 fee schedule shall include fees collected for the purpose of
 171 funding the Hospitality Education Program, pursuant to s.
 172 509.302, which are payable in full for each application
 173 regardless of when the application is submitted.

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

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

188 Section 5. Subsection (1) of section 509.291, Florida
 189 Statutes, is amended to read:

190 509.291 Advisory council.—

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

192 (a) The Secretary of Business and Professional Regulation
 193 shall appoint ~~seven~~six voting members to the advisory council.
 194 Each member appointed by the secretary must be an operator of an
 195 establishment licensed under this chapter and shall represent
 196 the industries regulated by the division, except that one member

197 appointed by the secretary must be a layperson representing the
 198 general public and one member must be a hospitality education
 199 administrator from an institution of higher education of this
 200 state. Such members of the council shall serve staggered terms
 201 of 4 years.

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

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

212 Section 6. Paragraph (c) of subsection (8) of section
 213 381.008, Florida Statutes, is amended to read:

214 381.008 Definitions of terms used in ss. 381.008-
 215 381.00897.—As used in ss. 381.008-381.00897, the following words
 216 and phrases mean:

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

223 (c) A hotel, or motel, ~~or resort condominium~~, as described
 224 ~~defined~~ in chapter 509, that is furnished for transient

225 occupancy.

226 Section 7. Subsection (4) of section 386.203, Florida
 227 Statutes, is amended to read:

228 386.203 Definitions.—As used in this part:

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

240 Section 8. This act shall take effect July 1, 2011.