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1 A bill to be entitled
2 An act relating to public lodging establishments; amending
3 s. 509.013, F.S.; revising definitions; amending s.
4 509.032, F.S.; conforming provisions to changes made by
5 the act; providing that vacation rentals are residential
6 property for purposes of provisions related to the
7 treatment of such properties; amending s. 509.221, F.S.;
8 clarifying that vacation rentals are exempt from certain
9 sanitary regulations; amending s. 509.241, F.S.;
10 clarifying an exemption from licensure for condominium
11 associations that do not own vacation rentals; amending s.
12 509.242, F.S.; providing that public lodging
13 establishments formerly classified as resort condominiums
14 and resort dwellings are classified as vacation rentals;
15 defining the term "vacation rental"; amending s. 509.251,
16 F.S., relating to license fees; conforming provisions to
17 changes made by the act; deleting an obsolete provision;
18 amending s. 509.291, F.S.; increasing the membership of an
19 advisory council to the Division of Hotels and Restaurants
20 of the Department of Business and Professional Regulation;
21 providing for the Florida Vacation Rental Managers
22 Association to appoint a member to the advisory council;
23 amending ss. 381.008 and 386.203, F.S.; conforming
24 provisions to changes made by the act; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
28

29 Section 1. Paragraph (a) of subsection (4) of section
 30 509.013, Florida Statutes, is amended to read:

31 509.013 Definitions.—As used in this chapter, the term:

32 (4) (a) "Public lodging establishment" includes a transient
 33 public lodging establishment as defined in subparagraph 1. and a
 34 nontransient public lodging establishment as defined in
 35 subparagraph 2.

36 1. "Transient public lodging establishment" means any
 37 unit, group of units, dwelling, building, or group of buildings
 38 within a single complex of buildings which is rented to guests
 39 more than three times in a calendar year for a period of 6
 40 months or less ~~periods of less than 30 days or 1 calendar month,~~
 41 ~~whichever is less,~~ or which is advertised or held out to the
 42 public as a place regularly rented to guests.

43 2. "Nontransient public lodging establishment" means any
 44 unit, group of units, dwelling, building, or group of buildings
 45 within a single complex of buildings which is rented to guests
 46 for a period of more than 6 months ~~periods of at least 30 days~~
 47 ~~or 1 calendar month, whichever is less,~~ or which is advertised
 48 or held out to the public as a place regularly rented to guests
 49 for a period of more than 6 months ~~periods of at least 30 days~~
 50 ~~or 1 calendar month.~~

51
 52 License classifications of public lodging establishments, and
 53 the definitions therefor, are set out in s. 509.242. For the
 54 purpose of licensure, the term does not include condominium
 55 common elements as defined in s. 718.103.

56 Section 2. Paragraph (a) of subsection (2) and subsection

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57 (7) of section 509.032, Florida Statutes, are amended to read:

58 509.032 Duties.—

59 (2) INSPECTION OF PREMISES.—

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

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85 such as facilities licensed under part II of chapter 400 or
 86 under chapter 429.

87 (7) PREEMPTION AUTHORITY.—

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

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

106 Section 3. Subsection (9) of section 509.221, Florida
 107 Statutes, is amended to read:

108 509.221 Sanitary regulations.—

109 (9) Subsections (2), (5), and (6) do not apply to any
 110 facility or unit classified as a vacation rental or resort
 111 ~~condominium, nontransient apartment, or resort dwelling~~ as
 112 described in s. 509.242(1) ~~(e), (d), and (g)~~.

113 Section 4. Subsection (2) of section 509.241, Florida
 114 Statutes, is amended to read:

115 509.241 Licenses required; exceptions.—

116 (2) APPLICATION FOR LICENSE.—Each person who plans to open
 117 a public lodging establishment or a public food service
 118 establishment shall apply for and receive a license from the
 119 division prior to the commencement of operation. A condominium
 120 association, as defined in s. 718.103, which does not own any
 121 units classified as vacation rentals ~~resort condominiums~~ under
 122 s. 509.242(1)(c) is ~~shall not be~~ required to apply for or
 123 receive a public lodging establishment license.

124 Section 5. Subsection (1) of section 509.242, Florida
 125 Statutes, is amended to read:

126 509.242 Public lodging establishments; classifications.—

127 (1) A public lodging establishment shall be classified as
 128 a hotel, motel, ~~resort condominium,~~ nontransient apartment,
 129 transient apartment, roominghouse, bed and breakfast inn, or
 130 vacation rental ~~resort dwelling~~ if the establishment satisfies
 131 the following criteria:

132 (a) *Hotel*.—A hotel is any public lodging establishment
 133 containing sleeping room accommodations for 25 or more guests
 134 and providing the services generally provided by a hotel and
 135 recognized as a hotel in the community in which it is situated
 136 or by the industry.

137 (b) *Motel*.—A motel is any public lodging establishment
 138 which offers rental units with an exit to the outside of each
 139 rental unit, daily or weekly rates, offstreet parking for each
 140 unit, a central office on the property with specified hours of

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141 operation, a bathroom or connecting bathroom for each rental
142 unit, and at least six rental units, and which is recognized as
143 a motel in the community in which it is situated or by the
144 industry.

145 (c) Vacation rental ~~Resort condominium.~~ A vacation rental
146 is any unit or group of units in a condominium, cooperative, or
147 timeshare plan or any individually or collectively owned single-
148 family, two-family, three-family, or four-family dwelling house
149 or dwelling unit that is also a transient public lodging
150 establishment. A resort condominium is any unit or group of
151 units in a condominium, cooperative, or timeshare plan which is
152 rented more than three times in a calendar year for periods of
153 less than 30 days or 1 calendar month, whichever is less, or
154 which is advertised or held out to the public as a place
155 regularly rented for periods of less than 30 days or 1 calendar
156 month, whichever is less.

157 (d) *Nontransient apartment or roominghouse.*—A nontransient
158 apartment or roominghouse is a building or complex of buildings
159 in which 75 percent or more of the units are available for rent
160 to nontransient tenants.

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

165 (f) *Roominghouse.*—A roominghouse is any public lodging
166 establishment that may not be classified as a hotel, motel,
167 ~~resort condominium,~~ nontransient apartment, bed and breakfast
168 inn, vacation rental, or transient apartment under this section.

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169 A roominghouse includes, but is not limited to, a boardinghouse.

170 ~~(g) Resort dwelling. A resort dwelling is any individually~~
 171 ~~or collectively owned one-family, two-family, three-family, or~~
 172 ~~four-family dwelling house or dwelling unit which is rented more~~
 173 ~~than three times in a calendar year for periods of less than 30~~
 174 ~~days or 1 calendar month, whichever is less, or which is~~
 175 ~~advertised or held out to the public as a place regularly rented~~
 176 ~~for periods of less than 30 days or 1 calendar month, whichever~~
 177 ~~is less.~~

178 (g) ~~(h)~~ *Bed and breakfast inn.*—A bed and breakfast inn is a
 179 family home structure, with no more than 15 sleeping rooms,
 180 which has been modified to serve as a transient public lodging
 181 establishment, which provides the accommodation and meal
 182 services generally offered by a bed and breakfast inn, and which
 183 is recognized as a bed and breakfast inn in the community in
 184 which it is situated or by the hospitality industry.

185 Section 6. Subsection (1) of section 509.251, Florida
 186 Statutes, is amended to read:

187 509.251 License fees.—

188 (1) The division shall adopt, by rule, a schedule of fees
 189 to be paid by each public lodging establishment as a
 190 prerequisite to issuance or renewal of a license. Such fees
 191 shall be based on the number of rental units in the
 192 establishment. The aggregate fee per establishment charged any
 193 public lodging establishment shall not exceed \$1,000; however,
 194 the fees described in paragraphs (a) and (b) may not be included
 195 as part of the aggregate fee subject to this cap. Vacation
 196 rental ~~Resort condominium~~ units within separate buildings or at

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197 separate locations but managed by one licensed agent may be
198 combined in a single license application, and the division shall
199 charge a license fee as if all units in the application are in a
200 single licensed establishment. ~~Resort dwelling units may be~~
201 ~~licensed in the same manner as condominium units.~~ The fee
202 schedule shall require an establishment which applies for an
203 initial license to pay the full license fee if application is
204 made during the annual renewal period or more than 6 months
205 prior to the next such renewal period and one-half of the fee if
206 application is made 6 months or less prior to such period. The
207 fee schedule shall include fees collected for the purpose of
208 funding the Hospitality Education Program, pursuant to s.
209 509.302, which are payable in full for each application
210 regardless of when the application is submitted.

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

216 (b) A license renewal filed with the division within 30
217 days after the expiration date shall be accompanied by a
218 delinquent fee as prescribed by rule, not to exceed \$50, in
219 addition to the renewal fee and any other fees required by law.
220 A license renewal filed with the division more than 30 but not
221 more than 60 days after the expiration date shall be accompanied
222 by a delinquent fee as prescribed by rule, not to exceed \$100,
223 in addition to the renewal fee and any other fees required by
224 law.

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

227 509.291 Advisory council.—

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

230 (a) The Secretary of Business and Professional Regulation
 231 shall appoint seven voting members to the advisory council. Each
 232 member appointed by the secretary must be an operator of an
 233 establishment licensed under this chapter and shall represent
 234 the industries regulated by the division, except that one member
 235 appointed by the secretary must be a layperson representing the
 236 general public and one member must be a hospitality education
 237 administrator from an institution of higher education of this
 238 state. Such members of the council shall serve staggered terms
 239 of 4 years.

240 (b) The Florida Restaurant and Lodging Association shall
 241 designate one representative to serve as a voting member of the
 242 council. The Florida Vacation Rental Managers Association shall
 243 designate one representative to serve as a voting member of the
 244 council. The Florida Apartment Association and the Florida
 245 Association of Realtors shall each designate one representative
 246 to serve as a voting member of the council.

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

250 Section 8. Paragraph (c) of subsection (8) of section
 251 381.008, Florida Statutes, is amended to read:

252 381.008 Definitions of terms used in ss. 381.008—

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253 381.00897.—As used in ss. 381.008-381.00897, the following words
 254 and phrases mean:

255 (8) "Residential migrant housing"—A building, structure,
 256 mobile home, barracks, or dormitory, and any combination thereof
 257 on adjacent property which is under the same ownership,
 258 management, or control, and the land appertaining thereto, that
 259 is rented or reserved for occupancy by five or more seasonal or
 260 migrant farmworkers, except:

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

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

266 386.203 Definitions.—As used in this part:

267 (4) "Designated smoking guest rooms at public lodging
 268 establishments" means the sleeping rooms and directly associated
 269 private areas, such as bathrooms, living rooms, and kitchen
 270 areas, if any, rented to guests for their exclusive transient
 271 occupancy in public lodging establishments, including hotels,
 272 motels, vacation rentals ~~resort condominiums~~, transient
 273 apartments, transient lodging establishments, rooming houses,
 274 boarding houses, ~~resort dwellings~~, bed and breakfast inns, and
 275 the like; and designated by the person or persons having
 276 management authority over such public lodging establishment as
 277 rooms in which smoking may be permitted.

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