

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:

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 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.