

1 A bill to be entitled

2 An act relating to public lodging establishments and
3 public food service establishments; amending s. 509.032,
4 F.S.; conforming provisions to changes made by the act;
5 providing that vacation rentals are residential property
6 for purposes of provisions related to the treatment of
7 such properties; revising authority preempted to the state
8 with regard to regulation of public lodging establishments
9 and public food service establishments; amending ss.
10 509.221 and 509.241, F.S.; conforming provisions to
11 changes made by the act; amending s. 509.242, F.S.;
12 providing that public lodging establishments formerly
13 classified as resort condominiums and resort dwellings are
14 classified as vacation rentals; defining the term
15 "vacation rental"; amending s. 509.251, F.S.; conforming
16 provisions to changes made by the act; amending s.
17 509.261, F.S.; revising penalties for public lodging
18 establishments and public food service establishments
19 operating without a valid license; amending s. 509.291,
20 F.S.; revising membership of the advisory council of the
21 Division of Hotels and Restaurants of the Department of
22 Business and Professional Regulation; requiring the
23 Florida Vacation Rental Managers Association to designate
24 a member to serve on the advisory council; amending ss.
25 381.008 and 386.203, F.S.; conforming provisions to
26 changes made by the act; providing an effective date.

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

29
30 Section 1. Paragraph (a) of subsection (2) and subsection
31 (7) of section 509.032, Florida Statutes, are amended to read:
32 509.032 Duties.—
33 (2) INSPECTION OF PREMISES.—
34 (a) The division has responsibility and jurisdiction for
35 all inspections required by this chapter. The division has
36 responsibility for quality assurance. Each licensed
37 establishment shall be inspected at least biannually, except for
38 transient and nontransient apartments, which shall be inspected
39 at least annually, and shall be inspected at such other times as
40 the division determines is necessary to ensure the public's
41 health, safety, and welfare. The division shall establish a
42 system to determine inspection frequency. Public lodging units
43 classified as vacation rentals ~~resort condominiums or resort~~
44 ~~dwellings~~ are not subject to this requirement, but shall be made
45 available to the division upon request. If, during the
46 inspection of a public lodging establishment classified for
47 renting to transient or nontransient tenants, an inspector
48 identifies vulnerable adults who appear to be victims of
49 neglect, as defined in s. 415.102, or, in the case of a building
50 that is not equipped with automatic sprinkler systems, tenants
51 or clients who may be unable to self-preserve in an emergency,
52 the division shall convene meetings with the following agencies
53 as appropriate to the individual situation: the Department of
54 Health, the Department of Elderly Affairs, the area agency on
55 aging, the local fire marshal, the landlord and affected tenants
56 and clients, and other relevant organizations, to develop a plan

57 | which improves the prospects for safety of affected residents
58 | and, if necessary, identifies alternative living arrangements
59 | such as facilities licensed under part II of chapter 400 or
60 | under chapter 429.

61 | (7) PREEMPTION AUTHORITY.—

62 | (a) The regulation of public lodging establishments and
63 | public food service establishments, including, but not limited
64 | to, ~~the inspection of public lodging establishments and public~~
65 | ~~food service establishments for compliance with the sanitation~~
66 | ~~standards, inspections, adopted under this section, and the~~
67 | ~~regulation of food safety protection standards for required~~
68 | ~~training and testing of food service establishment personnel,~~
69 | ~~and matters related to the nutritional content and marketing of~~
70 | ~~foods offered in such establishments, is~~ are preempted to the
71 | state. This paragraph ~~subsection~~ does not preempt the authority
72 | of a local government or local enforcement district to conduct
73 | inspections of public lodging and public food service
74 | establishments for compliance with the Florida Building Code and
75 | the Florida Fire Prevention Code, pursuant to ss. 553.80 and
76 | 633.022.

77 | (b) Notwithstanding any local law, ordinance, or
78 | regulation, a vacation rental, as described in s. 509.242(1)(c),
79 | is deemed residential property and may not be prohibited or
80 | treated differently from other residential property based solely
81 | on its classification, use, or occupancy.

82 | Section 2. Subsection (9) of section 509.221, Florida
83 | Statutes, is amended to read:

84 | 509.221 Sanitary regulations.—

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

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

91 509.241 Licenses required; exceptions.—

92 (2) APPLICATION FOR LICENSE.—Each person who plans to open
 93 a public lodging establishment or a public food service
 94 establishment shall apply for and receive a license from the
 95 division prior to the commencement of operation. A condominium
 96 association, as defined in s. 718.103, which does not own any
 97 units classified as vacation rentals ~~resort condominiums~~ under
 98 s. 509.242(1)(c) is ~~shall~~ not be required to apply for or
 99 receive a public lodging establishment license.

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

102 509.242 Public lodging establishments; classifications.—

103 (1) A public lodging establishment shall be classified as
 104 a hotel, motel, ~~resort condominium~~, nontransient apartment,
 105 transient apartment, roominghouse, bed and breakfast inn, or
 106 vacation rental ~~resort dwelling~~ if the establishment satisfies
 107 the following criteria:

108 (a) Hotel.—A hotel is any public lodging establishment
 109 containing sleeping room accommodations for 25 or more guests
 110 and providing the services generally provided by a hotel and
 111 recognized as a hotel in the community in which it is situated
 112 or by the industry.

113 (b) Motel.—A motel is any public lodging establishment
 114 which offers rental units with an exit to the outside of each
 115 rental unit, daily or weekly rates, offstreet parking for each
 116 unit, a central office on the property with specified hours of
 117 operation, a bathroom or connecting bathroom for each rental
 118 unit, and at least six rental units, and which is recognized as
 119 a motel in the community in which it is situated or by the
 120 industry.

121 (c) Vacation rental ~~Resort condominium~~.—A vacation rental
 122 ~~resort condominium~~ is any unit or group of units in a
 123 condominium, cooperative, or timeshare plan or any individually
 124 or collectively owned single-family, two-family, or four-family
 125 house or dwelling unit that is also a transient public lodging
 126 establishment ~~which is rented more than three times in a~~
 127 ~~calendar year for periods of less than 30 days or 1 calendar~~
 128 ~~month, whichever is less, or which is advertised or held out to~~
 129 ~~the public as a place regularly rented for periods of less than~~
 130 ~~30 days or 1 calendar month, whichever is less.~~

131 (d) Nontransient apartment or roominghouse.—A nontransient
 132 apartment or roominghouse is a building or complex of buildings
 133 in which 75 percent or more of the units are available for rent
 134 to nontransient tenants.

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

139 (f) Roominghouse.—A roominghouse is any public lodging
 140 establishment that may not be classified as a hotel, motel,

141 ~~resort condominium,~~ nontransient apartment, bed and breakfast
 142 inn, vacation rental, or transient apartment under this section.
 143 A roominghouse includes, but is not limited to, a boardinghouse.

144 ~~(g) Resort dwelling. A resort dwelling is any individually~~
 145 ~~or collectively owned one-family, two-family, three-family, or~~
 146 ~~four-family dwelling house or dwelling unit which is rented more~~
 147 ~~than three times in a calendar year for periods of less than 30~~
 148 ~~days or 1 calendar month, whichever is less, or which is~~
 149 ~~advertised or held out to the public as a place regularly rented~~
 150 ~~for periods of less than 30 days or 1 calendar month, whichever~~
 151 ~~is less.~~

152 (g) ~~(h)~~ Bed and breakfast inn.—A bed and breakfast inn is a
 153 family home structure, with no more than 15 sleeping rooms,
 154 which has been modified to serve as a transient public lodging
 155 establishment, which provides the accommodation and meal
 156 services generally offered by a bed and breakfast inn, and which
 157 is recognized as a bed and breakfast inn in the community in
 158 which it is situated or by the hospitality industry.

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

161 509.251 License fees.—

162 (1) The division shall adopt, by rule, a schedule of fees
 163 to be paid by each public lodging establishment as a
 164 prerequisite to issuance or renewal of a license. Such fees
 165 shall be based on the number of rental units in the
 166 establishment. The aggregate fee per establishment charged any
 167 public lodging establishment shall not exceed \$1,000; however,
 168 the fees described in paragraphs (a) and (b) may not be included

169 as part of the aggregate fee subject to this cap. Vacation
170 rental ~~Resort condominium~~ units within separate buildings or at
171 separate locations but managed by one licensed agent may be
172 combined in a single license application, and the division shall
173 charge a license fee as if all units in the application are in a
174 single licensed establishment. ~~Resort dwelling units may be~~
175 ~~licensed in the same manner as condominium units.~~ The fee
176 schedule shall require an establishment which applies for an
177 initial license to pay the full license fee if application is
178 made during the annual renewal period or more than 6 months
179 prior to the next such renewal period and one-half of the fee if
180 application is made 6 months or less prior to such period. The
181 fee schedule shall include fees collected for the purpose of
182 funding the Hospitality Education Program, pursuant to s.
183 509.302, which are payable in full for each application
184 regardless of when the application is submitted.

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

190 (b) A license renewal filed with the division within 30
191 days after the expiration date shall be accompanied by a
192 delinquent fee as prescribed by rule, not to exceed \$50, in
193 addition to the renewal fee and any other fees required by law.
194 A license renewal filed with the division more than 30 but not
195 more than 60 days after the expiration date shall be accompanied
196 by a delinquent fee as prescribed by rule, not to exceed \$100,

197 | in addition to the renewal fee and any other fees required by
 198 | law.

199 | Section 6. Subsection (1) of section 509.261, Florida
 200 | Statutes, is amended to read:

201 | 509.261 Revocation or suspension of licenses; fines;
 202 | procedure.—

203 | (1) Any public lodging establishment or public food
 204 | service establishment that has operated or is operating in
 205 | violation of this chapter or the rules of the division,
 206 | operating without a license, or operating with a suspended or
 207 | revoked license may be subject by the division to:

208 | (a) Fines not to exceed \$1,000 per offense;

209 | (b) Mandatory completion attendance, at personal expense,
 210 | of a remedial ~~at an~~ educational program administered ~~sponsored~~
 211 | by a food safety training program provider approved by the
 212 | division, as provided in s. 509.049 ~~the Hospitality Education~~
 213 | ~~Program~~; and

214 | (c) The suspension, revocation, or refusal of a license
 215 | issued pursuant to this chapter.

216 | Section 7. Subsection (1) of section 509.291, Florida
 217 | Statutes, is amended to read:

218 | 509.291 Advisory council.—

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

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

225 appointed by the secretary must be a layperson representing the
 226 general public and one member must be a hospitality education
 227 administrator from an institution of higher education of this
 228 state. Such members of the council shall serve staggered terms
 229 of 4 years.

230 (b) The Florida Restaurant and Lodging Association shall
 231 designate one representative to serve as a voting member of the
 232 council. The Florida Vacation Rental Managers Association shall
 233 designate one representative to serve as a voting member of the
 234 council. The Florida Apartment Association and the Florida
 235 Association of Realtors shall each designate one representative
 236 to serve as a voting member of the council.

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

240 Section 8. Paragraph (c) of subsection (8) of section
 241 381.008, Florida Statutes, is amended to read:

242 381.008 Definitions of terms used in ss. 381.008-
 243 381.00897.—As used in ss. 381.008-381.00897, the following words
 244 and phrases mean:

245 (8) "Residential migrant housing"—A building, structure,
 246 mobile home, barracks, or dormitory, and any combination thereof
 247 on adjacent property which is under the same ownership,
 248 management, or control, and the land appertaining thereto, that
 249 is rented or reserved for occupancy by five or more seasonal or
 250 migrant farmworkers, except:

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

253 occupancy.

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

256 386.203 Definitions.—As used in this part:

257 (4) "Designated smoking guest rooms at public lodging
 258 establishments" means the sleeping rooms and directly associated
 259 private areas, such as bathrooms, living rooms, and kitchen
 260 areas, if any, rented to guests for their exclusive transient
 261 occupancy in public lodging establishments, including hotels,
 262 motels, vacation rentals ~~resort condominiums~~, transient
 263 apartments, transient lodging establishments, rooming houses,
 264 boarding houses, ~~resort dwellings~~, bed and breakfast inns, and
 265 the like; and designated by the person or persons having
 266 management authority over such public lodging establishment as
 267 rooms in which smoking may be permitted.

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