

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Business & Professions
2 Subcommittee
3 Representative Moraitis offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:
Section 1. Section 509.241, Florida Statutes, is amended
to read:

509.241 Licenses required; exceptions.—

(1) LICENSES; ANNUAL RENEWALS.—Each public lodging
establishment and public food service establishment shall obtain
a license from the division. Such license may not be transferred
from one place or individual to another. It shall be a
misdemeanor of the second degree, punishable as provided in s.
775.082 or s. 775.083, for such an establishment to operate
without a license. Local law enforcement shall provide immediate
assistance in pursuing an illegally operating establishment. The

Amendment No. 1

18 division may refuse a license, or a renewal thereof, to any
19 establishment that is not constructed and maintained in
20 accordance with law and with the rules of the division. The
21 division may refuse to issue a license, or a renewal thereof, to
22 any establishment an operator of which, within the preceding 5
23 years, has been adjudicated guilty of, or has forfeited a bond
24 when charged with, any crime reflecting on professional
25 character, including soliciting for prostitution, pandering,
26 letting premises for prostitution, keeping a disorderly place,
27 or illegally dealing in controlled substances as defined in
28 chapter 893, whether in this state or in any other jurisdiction
29 within the United States, or has had a license denied, revoked,
30 or suspended pursuant to s. 429.14. The division shall suspend
31 the license of a vacation rental unit that does not meet all of
32 the criteria in subsection (2) by October 1, 2016. A vacation
33 rental unit operating without a license or with a license
34 expired for more than 60 days is subject to disciplinary action
35 pursuant to s. 509.261. Licenses shall be renewed annually, and
36 the division shall adopt a rule establishing a staggered
37 schedule for license renewals. If any license expires while
38 administrative charges are pending against the license, the
39 proceedings against the license shall continue to conclusion as
40 if the license were still in effect.

41 (2) APPLICATION FOR LICENSE.—

42 (a) Each person who plans to open a public lodging
43 establishment or a public food service establishment shall apply

Amendment No. 1

44 for and receive a license from the division before beginning
45 ~~prior to the commencement of~~ operation. A condominium
46 association, as defined in s. 718.103, which does not own any
47 units classified as vacation rentals or timeshare projects under
48 s. 509.242(1)(c) or (g) is not required to apply for or receive
49 a public lodging establishment license.

50 (b)1. An applicant for a vacation rental license must
51 provide the following to the division before a license may be
52 issued:

53 a. Evidence confirming registration with the county
54 collector of the tourist development tax.

55 b. Evidence confirming registration with the Department of
56 Revenue to collect and remit state sales tax.

57 c. Evidence confirming receipt of all applicable local
58 licenses. If a state vacation rental unit license is required to
59 obtain a local license, a provisional license may be granted to
60 the applicant. The provisional license expires if the required
61 local license is not obtained within 60 days after issuance of
62 the provisional license.

63 2. A vacation rental unit licensee must have a valid phone
64 number and e-mail address on file with the division.

65 3. A group or collective license may be issued for up to
66 50 vacation rental units managed by one licensed agent, subject
67 to the following conditions:

68 a. Each individual unit must be located completely within
69 the borders of a single county;

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Amendment No. 1

70 b. Evidence confirming each local license required under
71 paragraph (b) is submitted for each individual vacation rental
72 unit upon application for a group or collective license; and,

73 c. The units licensed under a group or collective license
74 may not be changed or swapped after an application is approved
75 by the division, except during the renewal of the annual
76 license.

77 (3) DISPLAY OF LICENSE.—

78 (a) Any license issued by the division shall be
79 conspicuously displayed in the office or lobby of the licensed
80 establishment. A public food service establishment that offers
81 ~~establishments which offer~~ catering services shall display its
82 ~~their~~ license number on all advertising for catering services.

83 (b) 1. A vacation rental unit must display its license
84 number on all vacation rental advertisements.

85 2. The division may issue and deliver to a person failing
86 to display a license number on a vacation rental advertisement a
87 notice to cease and desist from such violation. In addition, the
88 department may issue and deliver a notice to cease and desist to
89 any person who aids and abets the violation of this requirement
90 by hosting such advertisement. The issuance of a notice to cease
91 and desist does not constitute agency action for which a hearing
92 may be sought under ss. 120.569 and 120.57. For the purpose of
93 enforcing a cease and desist notice, the division may file a
94 proceeding in the name of the state seeking issuance of an
95 injunction or a writ of mandamus against any person who violates

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Amendment No. 1

96 such a notice.

97 3. A person who remedies such failure to display a license
98 number on a vacation rental advertisement by either displaying
99 the license number on subsequent advertisements or by removing
100 all offending advertisements within 15 days after receipt of a
101 cease and desist notice may not be pursued by the division for
102 violation of this subsection if the cease and desist notice is
103 the first such notice received by the person under this section.

104 4. Subject to subparagraph 3., the division may, pursuant
105 to s. 509.261, impose a fine not to exceed \$50 per violation
106 against any public lodging establishment that violates this
107 subsection. Each day that an advertisement is active without a
108 license number is considered a separate violation.

109 5. If a person who has previously been found to be in
110 violation of this subsection is subsequently again found in
111 violation of this subsection, the division may, pursuant to s.
112 509.261, suspend or revoke the license of, or impose a fine not
113 to exceed \$100 per violation against, any public lodging
114 establishment that violates this subsection. Each day that an
115 advertisement is active without a license number shall be
116 considered a separate violation.

117 Section 2. Subsection (1) of section 509.251, Florida
118 Statutes, is amended to read:

119 509.251 License fees.—

120 (1) The division shall adopt, by rule, a schedule of fees
121 to be paid by each public lodging establishment as a

Amendment No. 1

122 prerequisite to issuance or renewal of a license. Such fees
123 shall be based on the number of rental units in the
124 establishment. The aggregate fee per establishment charged any
125 public lodging establishment may not exceed \$1,000; however, the
126 fees described in paragraphs (a) and (b) may not be included as
127 part of the aggregate fee subject to this cap. Up to 50 vacation
128 ~~Vacation~~ rental units or timeshare projects within the same
129 building, within separate buildings at the same location, or at
130 separate locations within the same county, but managed by one
131 licensed agent may be combined in a single license application,
132 and the division shall charge a license fee as if all units in
133 the application are in a single licensed establishment. The fee
134 schedule shall require an establishment which applies for an
135 initial license to pay the full license fee if application is
136 made during the annual renewal period or more than 6 months
137 before the next such renewal period and one-half of the fee if
138 application is made 6 months or less before such period. The fee
139 schedule shall include fees collected for the purpose of funding
140 the Hospitality Education Program, pursuant to s. 509.302, which
141 are payable in full for each application regardless of when the
142 application is submitted.

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

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Amendment No. 1

148 (b) A license renewal filed with the division after the
149 expiration date shall be accompanied by a delinquent fee as
150 prescribed by rule, not to exceed \$50, in addition to the
151 renewal fee and any other fees required by law.

152 Section 3. (1) The Department of Revenue, and any county
153 that self-administers a tax imposed under s. 125.0104, s.
154 125.0108, or s. 212.0305, Florida Statutes, shall provide an
155 amnesty program for unpaid taxes, penalties, and interest due
156 under chapter 125 or chapter 212, Florida Statutes, for persons
157 who engage in the business of leasing, renting, or letting, or
158 granting a license to use, a vacation rental as that term is
159 defined in s. 509.242, Florida Statutes. The amnesty program
160 shall be in effect from July 1, 2016 through December 1, 2016.

161 (2) To participate in the amnesty program, a taxpayer must
162 make an affirmative written statement that includes the
163 following provisions:

164 (a) All payments for the vacation rentals were made before
165 July 1, 2016.

166 (b) The owner, operator, or manager of the vacation rental
167 collected the rental payments.

168 (c) Tax was not collected from any customer for any
169 vacation rental before July 1, 2016.

170 (d) The person who collects the rental payments agrees to
171 register as a dealer with the department, license any vacation
172 rental with the Department of Business and Professional
173 Regulation, and register with any self-administering counties no

Amendment No. 1

174 later than October 1, 2016.

175 (3) (a) The amnesty program is not available for any tax,
176 penalty, or interest assessed if the assessment is final or for
177 any amounts paid to the department or a self-administering
178 county, unless the payment was made toward an assessment that is
179 not final or that has been timely challenged.

180 (b) Participation in the amnesty program is conditioned
181 upon the taxpayer's express waiver of rights to contest the
182 taxes reported pursuant to the amnesty program. If the taxes
183 reported are the subject of a pending informal protest or an
184 administrative or judicial proceeding that has not become final,
185 participation in the amnesty program is conditioned upon the
186 taxpayer's withdrawal of such informal protest or dismissal of
187 such administrative or judicial proceeding. Participation in the
188 amnesty program is further conditioned upon the taxpayer's
189 express agreement to waive any right to claim a refund or to
190 protest or initiate an administrative or judicial proceeding to
191 review any denial of a refund claim or any tax or interest paid
192 under the amnesty program.

193 (4) The Department of Revenue may, and all conditions are
194 deemed met to, adopt emergency rules under ss. 120.536(1) and
195 120.54(4), Florida Statutes, to implement the amnesty program.
196 Such rules may provide forms, procedures, terms, and conditions
197 that are appropriate for the fair and effective administration
198 of the amnesty program and that ensure taxpayers' ongoing
199 commitment to proper collection and remittance of tax. A self-

Amendment No. 1

200 administering county is required to use the Department of
201 Revenue's rules to administer its amnesty program.
202 Notwithstanding any other law, the emergency rules remain in
203 effect until 6 months after their adoption or until the date all
204 amnesty application files are resolved pursuant to this section,
205 whichever is later.

206 Section 4. The sum of \$72,540 in non-recurring funds is
207 appropriated from the General Revenue Trust Fund to the
208 Department of Revenue for the purposes of administering the
209 amnesty program created by this act.

210 Section 5. This act shall take effect July 1, 2016.

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T I T L E A M E N D M E N T

214 Remove everything before the enacting clause and insert:
215 An act relating to vacation rentals units; amending s. 509.241,
216 F.S.; providing penalties enforced by the Division of Hotels and
217 Restaurants of the Department of Business and Professional
218 Regulation for certain violations by a vacation rental unit;
219 providing conditions for the issuance of a vacation rental
220 license may be issued; providing conditions for a group license;
221 requiring a vacation rental unit to display its license number
222 on all vacation rental advertisements; authorizing the division
223 to issue a cease and desist notice for a violation against
224 specified persons; providing construction; authorizing the
225 department to file a certain proceeding to enforce the cease and

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1287 (2016)

Amendment No. 1

226 desist notice; providing penalties and an exception; amending s.
227 509.251, F.S.; conforming cross-references; requiring the
228 Department of Revenue and any county that self-administers
229 certain taxes to provide an amnesty program for certain unpaid
230 taxes, penalties, and interest for a specified time; providing
231 requirements and conditions for a taxpayer to participate in the
232 amnesty program; authorizing the Department of Revenue to adopt
233 emergency rules; providing an appropriation; providing an
234 effective date.