

By Senator Steube

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A bill to be entitled

1 An act relating to vacation rentals; providing a
2 directive to the Division of Law Revision and
3 Information; creating s. 509.601, F.S.; providing a
4 short title; creating s. 509.603, F.S.; providing
5 legislative findings; specifying purpose; preempting
6 regulation and control of vacation rentals to the
7 state; specifying authority of the Division of Hotels
8 and Restaurants over regulation of vacation rentals;
9 requiring the division to adopt rules; specifying
10 applicability of the preemption; creating s. 509.604,
11 F.S.; requiring vacation rentals to obtain a license;
12 specifying that individuals cannot transfer licenses;
13 specifying a penalty for operating without a license;
14 requiring local law enforcement to assist with
15 enforcement; specifying that the division may refuse
16 to issue or renew a license under certain
17 circumstances; specifying that licenses must be
18 renewed annually and that the division must adopt
19 rules for staggered renewals; specifying the manner in
20 which administrative proceedings proceed upon the
21 expiration of a license; specifying that persons
22 intending to use a property as a vacation rental apply
23 for and receive a license before use; requiring such
24 licenses to be displayed in a vacation rental;
25 creating s. 509.605, F.S.; requiring the division to
26 adopt rules regarding certain license and delinquent
27 fees; specifying requirements regarding such fees;
28 creating s. 509.606, F.S.; providing penalties for
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30 violations; specifying the circumstances that
31 constitute a separate offense of a critical law or
32 rule; specifying circumstances where a closed-for-
33 operation sign must be posted; specifying where
34 administrative fines must be paid and credited to;
35 specifying the maximum amount of time a vacation
36 rental license may be suspended for; specifying
37 certain circumstances where the division may fine,
38 suspend, or revoke the license of a vacation rental;
39 specifying that persons are not entitled to a license
40 when administrative proceedings have been or will be
41 brought against a licenseholder; providing enforcement
42 for noncompliance with final orders or other
43 administrative actions; authorizing the division to
44 refuse the issuance or renewal of a license until all
45 fines have been paid; creating s. 509.607, F.S.;

46 specifying that vacation rentals are to be treated as
47 transient rentals regarding certain tax and landlord
48 and tenant provisions; exempting persons renting or
49 advertising for rent from certain real estate
50 regulations; creating s. 509.608, F.S.; preempting
51 inspection of vacation rentals to the state;

52 specifying that the division is solely responsible for
53 inspections and quality assurance; specifying that the
54 division has a right of entry and access for
55 performing inspections; prohibiting the division from
56 establishing certain rules; specifying that vacation
57 rentals must be made available for inspection upon
58 request; specifying procedures for vulnerable adults

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59 appearing to be victims of neglect and, in the case of
60 buildings without automatic sprinkler systems, persons
61 who may not be able to self-preserve in an emergency;
62 requiring the division to inspect vacation rentals
63 when necessary to respond to emergencies and
64 epidemiological conditions; amending s. 509.013, F.S.;
65 revising and defining terms; amending s. 509.032,
66 F.S.; specifying provisions for inspection of vacation
67 rentals; deleting certain preemption provisions
68 relating to vacation rentals; amending ss. 509.072,
69 509.091, 509.095, 509.101, 509.111, 509.141, 509.142,
70 509.144, 509.162, 509.2015, 509.211, 509.2112, and
71 509.215, F.S.; conforming provisions to changes made
72 by the act; amending s. 509.221, F.S.; revising a
73 provision that excludes vacation rentals from certain
74 sanitary regulations; amending s. 509.241, F.S.;
75 conforming provisions to changes made by the act;
76 amending s. 509.242, F.S.; removing vacation rentals
77 from the classifications of public lodging
78 establishments; amending ss. 509.251, 509.281,
79 509.302, 509.4005, 509.401, 509.402, 509.405, 509.409,
80 and 509.417, F.S.; conforming provisions to changes
81 made by the act; providing an effective date.

82
83 Be It Enacted by the Legislature of the State of Florida:

84
85 Section 1. The Division of Law Revision and Information is
86 directed to create part III of chapter 509, Florida Statutes,
87 consisting of ss. 509.601-509.608, Florida Statutes, to be

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88 entitled "Vacation Rentals."

89 Section 2. Section 509.601, Florida Statutes, is created to
90 read:

91 509.601 Short title.—This part may be cited as the "Florida
92 Vacation Rental Act."

93 Section 3. Section 509.603, Florida Statutes, is created to
94 read:

95 509.603 Legislative findings and purpose; preemption of
96 subject matter; duties.—

97 (1) The Legislature finds that:

98 (a) Property owners who choose to use their property as a
99 vacation rental have constitutionally protected property and
100 other rights that must be protected, including the right to use
101 their residential property as a vacation rental;

102 (b) Vacation rentals play a significant, unique, and
103 critical role in Florida's tourism industry, and that role is
104 different from that of public lodging establishments;

105 (c) There are factors unique to the ownership and operation
106 of a vacation rental; and

107 (d) Vacation rentals are residential in nature and thus,
108 belong in residential neighborhoods.

109 (2) This act is created for the purpose of regulating the
110 factors unique to vacation rentals. The applicable provisions of
111 part I of this chapter are hereby deemed incorporated in this
112 act.

113 (3) The regulation and control of vacation rentals is
114 preempted to the state.

115 (4) The division has the sole authority to carry out this
116 act.

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117 (5) The division shall adopt rules pursuant to ss.
118 120.536(1) and 120.54 to implement this part.

119 (6) If any provision of this act is held invalid, it is the
120 legislative intent that the preemption by this section be no
121 longer applicable to the provision of the act held invalid.

122 Section 4. Section 509.604, Florida Statutes, is created to
123 read:

124 509.604 Licenses required; exceptions.-

125 (1) LICENSES; ANNUAL RENEWALS.-Each vacation rental shall
126 obtain a license from the division. Such license may not be
127 transferred from one place or individual to another. It shall be
128 a misdemeanor of the second degree, punishable as provided in s.
129 775.082 or s. 775.083, for such a rental to operate without a
130 license. Local law enforcement shall provide immediate
131 assistance in pursuing an illegally operating vacation rental.
132 The division may refuse to issue a license, or a renewal
133 thereof, to any vacation rental of an operator of which, within
134 the preceding 5 years, has been adjudicated guilty of, or has
135 forfeited a bond when charged with, any crime reflecting on
136 professional character, including soliciting for prostitution,
137 pandering, letting premises for prostitution, keeping a
138 disorderly place, or illegally dealing in controlled substances
139 as defined in chapter 893, whether in this state or in any other
140 jurisdiction within the United States, or has had a license
141 denied, revoked, or suspended pursuant to s. 429.14. Licenses
142 must be renewed annually, and the division shall adopt a rule
143 establishing a staggered schedule for license renewals. If any
144 license expires while administrative charges are pending against
145 the license, the proceedings against the license shall continue

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146 to conclusion as if the license were still in effect.

147 (2) APPLICATION FOR LICENSE.--Each person intending to use
 148 his or her property as a vacation rental must apply for and
 149 receive a license from the division before the commencement of
 150 such use.

151 (3) DISPLAY OF LICENSE.--Any license issued by the division
 152 must be conspicuously displayed in the vacation rental.

153 Section 5. Section 509.605, Florida Statutes, is created to
 154 read:

155 509.605 License fees.--

156 (1) The division shall adopt by rule a fee to be paid by
 157 each vacation rental as a prerequisite to issuance or renewal of
 158 a license. Vacation rental units within separate buildings or at
 159 separate locations but managed by one licensed operator may be
 160 combined in a single license application, and the division shall
 161 charge a license fee as if all units in the application are a
 162 single vacation rental; however, such fee may not exceed \$1,000.
 163 The rule must require a vacation rental that applies for an
 164 initial license to pay the full license fee if application is
 165 made during the annual renewal period or more than 6 months
 166 before the next such renewal period and one-half of the fee if
 167 application is made 6 months or less before such period. The
 168 rule must also require that fees be collected for the purpose of
 169 funding the Hospitality Education Program, pursuant to s.
 170 509.302. Such fees must be payable in full for each application
 171 regardless of when the application is submitted.

172 (2) Upon making initial application or an application for
 173 change of ownership of a vacation rental, the applicant must pay
 174 to the division a fee as prescribed by rule, not to exceed \$50,

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175 in addition to any other fees required by law, which must cover
176 all costs associated with initiating regulation of the vacation
177 rental.

178 (3) A license renewal filed with the division after the
179 expiration date must be accompanied by a delinquent fee as
180 prescribed by rule, not to exceed \$50, in addition to the
181 renewal fee and any other fees required by law.

182 Section 6. Section 509.606, Florida Statutes, is created to
183 read:

184 509.606 Revocation or suspension of licenses; fines;
185 procedure.--

186 (1) Any vacation rental operating in violation of this act
187 or the rules of the division, operating without a license, or
188 operating with a suspended or revoked license may be subject by
189 the division to:

190 (a) Fines not to exceed \$1,000 per offense; and

191 (b) The suspension, revocation, or refusal of a license
192 issued pursuant to this chapter.

193 (2) For the purposes of this section, the division may
194 regard as a separate offense each day or portion of a day on
195 which a vacation rental is operated in violation of a "critical
196 law or rule," as that term is defined by rule.

197 (3) The division shall post a prominent closed-for-
198 operation sign on any vacation rental, the license of which has
199 been suspended or revoked. The division shall also post such
200 sign on any vacation rental judicially or administratively
201 determined to be operating without a license. It is a
202 misdemeanor of the second degree, punishable as provided in s.
203 775.082 or s. 775.083, for any person to deface or remove such

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204 closed-for-operation sign or for any vacation rental to open for
205 operation without a license or to open for operation while its
206 license is suspended or revoked. The division may impose
207 administrative sanctions for violations of this section.

208 (4) All funds received by the division as satisfaction for
209 administrative fines must be paid into the State Treasury to the
210 credit of the Hotel and Restaurant Trust Fund and may not
211 subsequently be used for payment to any entity performing
212 required inspections under contract with the division.
213 Administrative fines may be used to support division programs
214 pursuant to s. 509.302(1).

215 (5) (a) A license may not be suspended under this section
216 for a period of more than 12 months. At the end of such period
217 of suspension, the vacation rental may apply for reinstatement
218 or renewal of the license. A vacation rental, the license of
219 which is revoked, may not apply for another license for that
220 location before the date on which the revoked license would have
221 expired.

222 (b) The division may fine, suspend, or revoke the license
223 of any vacation rental if an operator knowingly lets, leases, or
224 gives space for unlawful gambling purposes or permits unlawful
225 gambling in such establishment or in or upon any premises which
226 are used in connection with, and are under the same charge,
227 control, or management as, such establishment.

228 (6) The division may fine, suspend, or revoke the license
229 of any vacation rental when:

230 (a) Any person with a direct financial interest in the
231 licensed vacation rental, within the preceding 5 years in this
232 state, any other state, or the United States, has been

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233 adjudicated guilty of or forfeited a bond when charged with
234 soliciting for prostitution, pandering, letting premises for
235 prostitution, keeping a disorderly place, illegally dealing in
236 controlled substances as defined in chapter 893, or any other
237 crime reflecting on professional character.

238 (b) The division has deemed such vacation rental to be an
239 imminent danger to the public health and safety for failure to
240 meet sanitation standards, or the division has determined the
241 vacation rental to be unsafe or unfit for human occupancy.

242 (7) A person is not entitled to the issuance of a license
243 for any vacation rental except in the discretion of the director
244 when the division has notified the current licenseholder for
245 such premises that administrative proceedings have been or will
246 be brought against such current licensee for violation of any
247 provision of this chapter or rule of the division.

248 (8) The division may fine, suspend, or revoke the license
249 of any vacation rental when the rental is not in compliance with
250 the requirements of a final order or other administrative action
251 issued against the licensee by the division.

252 (9) The division may refuse to issue or renew the license
253 of any vacation rental until all outstanding fines are paid in
254 full to the division as required by all final orders or other
255 administrative action issued against the licensee by the
256 division.

257 Section 7. Section 509.607, Florida Statutes, is created to
258 read:

259 509.607 Taxes; exemptions.—Vacation rentals are subject to
260 chapter 212 in the same manner as transient rentals. Vacation
261 rentals are exempt from chapter 83 in the same manner as

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262 transient rentals. Any person, partnership, corporation, or
263 other legal entity which, for another and for compensation or
264 other valuable consideration, rents or advertises for rent a
265 vacation rental licensed under chapter 509 is exempt from
266 chapter 475.

267 Section 8. Section 509.608, Florida Statutes, is created to
268 read:

269 509.608 Inspection of premises.--

270 (1) Inspection of vacation rentals is preempted to the
271 state, and the division has jurisdiction and is solely
272 responsible for all inspections. The division is solely
273 responsible for quality assurance.

274 (2) For purposes of performing inspections and the
275 enforcement of this chapter, the division has the right of entry
276 and access to a vacation rental at any reasonable time.

277 (3) The division may not establish by rule any regulation
278 governing the design, construction, erection, alteration,
279 modification, repair, or demolition of any vacation rental.

280 (4) Vacation rentals must be made available to the division
281 for inspection upon request. If, during the inspection of a
282 vacation rental, an inspector identifies vulnerable adults who
283 appear to be victims of neglect, as defined in s. 415.102, or,
284 in the case of a building that is not equipped with automatic
285 sprinkler systems, tenants or clients who may be unable to self-
286 preserve in an emergency, the division shall convene meetings
287 with the following agencies as appropriate to the individual
288 situation: the Department of Health, the Department of Elderly
289 Affairs, the area agency on aging, the local fire marshal, the
290 landlord and affected tenants and clients, and other relevant

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291 organizations, to develop a plan that improves the prospects for
 292 safety of affected residents and, if necessary, identifies
 293 alternative living arrangements, such as facilities licensed
 294 under part II of chapter 400 or under chapter 429.

295 (5) The division shall inspect vacation rentals whenever
 296 necessary to respond to an emergency or epidemiological
 297 condition.

298 Section 9. Subsections (2) and (3) and paragraph (b) of
 299 subsection (4) of section 509.013, Florida Statutes, are
 300 amended, and subsection (17) is added to that section, to read:

301 509.013 Definitions.—As used in this chapter, the term:

302 (2) "Operator" means the owner, licensee, proprietor,
 303 lessee, manager, assistant manager, or appointed agent of a
 304 public lodging establishment, vacation rental, or public food
 305 service establishment.

306 (3) "Guest" means any patron, customer, tenant, lodger,
 307 boarder, or occupant of a public lodging establishment, vacation
 308 rental, or public food service establishment.

309 (4)

310 (b) The following are excluded from the definitions in
 311 paragraph (a):

312 1. Any dormitory or other living or sleeping facility
 313 maintained by a public or private school, college, or university
 314 for the use of students, faculty, or visitors.

315 2. Any facility certified or licensed and regulated by the
 316 Agency for Health Care Administration or the Department of
 317 Children and Families or other similar place regulated under s.
 318 381.0072.

319 3. Any place renting four rental units or less, unless the

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320 rental units are advertised or held out to the public to be
 321 places that are regularly rented to transients.

322 4. Any unit or group of units in a condominium,
 323 cooperative, or timeshare plan and any individually or
 324 collectively owned one-family, two-family, three-family, or
 325 four-family dwelling house or dwelling unit that is rented for
 326 periods of at least 30 days or 1 calendar month, whichever is
 327 less, and that is not advertised or held out to the public as a
 328 place regularly rented for periods of less than 1 calendar
 329 month, provided that no more than four rental units within a
 330 single complex of buildings are available for rent.

331 5. Any migrant labor camp or residential migrant housing
 332 permitted by the Department of Health under ss. 381.008-
 333 381.00895.

334 6. Any establishment inspected by the Department of Health
 335 and regulated by chapter 513.

336 7. Any nonprofit organization that operates a facility
 337 providing housing only to patients, patients' families, and
 338 patients' caregivers and not to the general public.

339 8. Any apartment building inspected by the United States
 340 Department of Housing and Urban Development or other entity
 341 acting on the department's behalf that is designated primarily
 342 as housing for persons at least 62 years of age. The division
 343 may require the operator of the apartment building to attest in
 344 writing that such building meets the criteria provided in this
 345 subparagraph. The division may adopt rules to implement this
 346 requirement.

347 9. Any roominghouse, boardinghouse, or other living or
 348 sleeping facility that may not be classified as a hotel, motel,

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349 timeshare project, ~~vacation rental~~, nontransient apartment, bed
350 and breakfast inn, or transient apartment under s. 509.242.

351 10. Any vacation rental.

352 (17) "Vacation rental" means any unit in a condominium or
353 cooperative or any individually or collectively owned single-
354 family, two-family, three-family, or four-family house or
355 dwelling unit that is rented to guests for periods of less than
356 6 months.

357 Section 10. Paragraph (a) of subsection (2) and subsection
358 (7) of section 509.032, Florida Statutes, are amended to read:

359 509.032 Duties.—

360 (2) INSPECTION OF PREMISES.—

361 (a) The division has jurisdiction and is responsible for
362 all inspections required by this chapter. The inspection of
363 vacation rentals shall be done in accordance with part III of
364 this chapter. The division is responsible for quality assurance.
365 The division shall inspect each licensed public lodging
366 establishment at least biannually, except for transient and
367 nontransient apartments, which shall be inspected at least
368 annually. Each establishment licensed by the division shall be
369 inspected at such other times as the division determines is
370 necessary to ensure the public's health, safety, and welfare.
371 The division shall adopt by rule a risk-based inspection
372 frequency for each licensed public food service establishment.
373 The rule must require at least one, but not more than four,
374 routine inspections that must be performed annually, and may
375 include guidelines that consider the inspection and compliance
376 history of a public food service establishment, the type of food
377 and food preparation, and the type of service. The division

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378 shall reassess the inspection frequency of all licensed public
379 food service establishments at least annually. Public lodging
380 units classified as ~~vacation rentals or~~ timeshare projects are
381 not subject to this requirement but shall be made available to
382 the division upon request. If, during the inspection of a public
383 lodging establishment classified for renting to transient or
384 nontransient tenants, an inspector identifies vulnerable adults
385 who appear to be victims of neglect, as defined in s. 415.102,
386 or, in the case of a building that is not equipped with
387 automatic sprinkler systems, tenants or clients who may be
388 unable to self-preserve in an emergency, the division shall
389 convene meetings with the following agencies as appropriate to
390 the individual situation: the Department of Health, the
391 Department of Elderly Affairs, the area agency on aging, the
392 local fire marshal, the landlord and affected tenants and
393 clients, and other relevant organizations, to develop a plan
394 that improves the prospects for safety of affected residents
395 and, if necessary, identifies alternative living arrangements
396 such as facilities licensed under part II of chapter 400 or
397 under chapter 429.

398 (7) PREEMPTION AUTHORITY.—

399 ~~(a)~~ The regulation of public lodging establishments and
400 public food service establishments, including, but not limited
401 to, sanitation standards, inspections, training and testing of
402 personnel, and matters related to the nutritional content and
403 marketing of foods offered in such establishments, is preempted
404 to the state. This paragraph does not preempt the authority of a
405 local government or local enforcement district to conduct
406 inspections of public lodging and public food service

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407 establishments for compliance with the Florida Building Code and
408 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
409 633.206.

410 ~~(b) A local law, ordinance, or regulation may not prohibit~~
411 ~~vacation rentals or regulate the duration or frequency of rental~~
412 ~~of vacation rentals. This paragraph does not apply to any local~~
413 ~~law, ordinance, or regulation adopted on or before June 1, 2011.~~

414 ~~(c) Paragraph (b) does not apply to any local law,~~
415 ~~ordinance, or regulation exclusively relating to property~~
416 ~~valuation as a criterion for vacation rental if the local law,~~
417 ~~ordinance, or regulation is required to be approved by the state~~
418 ~~land planning agency pursuant to an area of critical state~~
419 ~~concern designation.~~

420 Section 11. Subsection (1) of section 509.072, Florida
421 Statutes, is amended to read:

422 509.072 Hotel and Restaurant Trust Fund; collection and
423 disposition of moneys received.—

424 (1) There is created a Hotel and Restaurant Trust Fund to
425 be used for the administration and operation of the division and
426 the carrying out of all laws and rules under the jurisdiction of
427 the division pertaining to the construction, maintenance, and
428 operation of public lodging establishments, vacation rentals,
429 and public food service establishments, including the inspection
430 of elevators as required under chapter 399. All funds collected
431 by the division and the amounts paid for licenses and fees shall
432 be deposited in the State Treasury into the Hotel and Restaurant
433 Trust Fund.

434 Section 12. Section 509.091, Florida Statutes, is amended
435 to read:

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436 509.091 Notices; form and service.—

437 (1) Each notice served by the division pursuant to this
438 chapter must be in writing and must be delivered personally by
439 an agent of the division or by registered letter to the operator
440 of the public lodging establishment, vacation rental, or public
441 food service establishment. If the operator refuses to accept
442 service or evades service or the agent is otherwise unable to
443 effect service after due diligence, the division may post such
444 notice in a conspicuous place at the establishment.

445 (2) Notwithstanding subsection (1), the division may
446 deliver lodging inspection reports and food service inspection
447 reports to the operator of the public lodging establishment,
448 vacation rental, or public food service establishment by
449 electronic means.

450 Section 13. Section 509.095, Florida Statutes, is amended
451 to read:

452 509.095 Accommodations at public lodging establishments or
453 vacation rentals for individuals with a valid military
454 identification card.—Upon the presentation of a valid military
455 identification card by an individual who is currently on active
456 duty as a member of the United States Armed Forces, National
457 Guard, Reserve Forces, or Coast Guard, and who seeks to obtain
458 accommodations at a hotel, motel, or bed and breakfast inn, as
459 defined in s. 509.242, or vacation rental, such hotel, motel, ~~or~~
460 bed and breakfast inn, or vacation rental shall waive any
461 minimum age policy that it may have which restricts
462 accommodations to individuals based on age. Duplication of a
463 military identification card presented pursuant to this section
464 is prohibited.

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465 Section 14. Subsection (1) of section 509.101, Florida
466 Statutes, is amended to read:

467 509.101 Establishment rules; posting of notice; food
468 service inspection report; maintenance of guest register; mobile
469 food dispensing vehicle registry.—

470 (1) Any operator of a public lodging establishment,
471 vacation rental, or ~~a~~ public food service establishment may
472 establish reasonable rules and regulations for the management of
473 the establishment and its guests and employees; and each guest
474 or employee staying, sojourning, eating, or employed in the
475 establishment shall conform to and abide by such rules and
476 regulations so long as the guest or employee remains in or at
477 the establishment. Such rules and regulations shall be deemed to
478 be a special contract between the operator and each guest or
479 employee using the services or facilities of the operator. Such
480 rules and regulations shall control the liabilities,
481 responsibilities, and obligations of all parties. Any rules or
482 regulations established pursuant to this section shall be
483 printed in the English language and posted in a prominent place
484 within such public lodging establishment, vacation rental, or
485 public food service establishment. In addition, any operator of
486 a public food service establishment shall maintain a copy of the
487 latest food service inspection report and shall make it
488 available to the division at the time of any division inspection
489 of the establishment and to the public, upon request.

490 Section 15. Section 509.111, Florida Statutes, is amended
491 to read:

492 509.111 Liability for property of guests.—

493 (1) The operator of a public lodging establishment or

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494 vacation rental is not under any obligation to accept for
495 safekeeping any moneys, securities, jewelry, or precious stones
496 of any kind belonging to any guest, and, if such are accepted
497 for safekeeping, the operator is not liable for the loss thereof
498 unless such loss was the proximate result of fault or negligence
499 of the operator. However, the liability of the operator shall be
500 limited to \$1,000 for such loss, if the public lodging
501 establishment or vacation rental gave a receipt for the property
502 (stating the value) on a form which stated, in type large enough
503 to be clearly noticeable, that the public lodging establishment
504 or vacation rental was not liable for any loss exceeding \$1,000
505 and was only liable for that amount if the loss was the
506 proximate result of fault or negligence of the operator.

507 (2) The operator of a public lodging establishment or
508 vacation rental is not liable or responsible to any guest for
509 the loss of wearing apparel, goods, or other property, except as
510 provided in subsection (1), unless such loss occurred as the
511 proximate result of fault or negligence of such operator, and,
512 in case of fault or negligence, the operator is not liable for a
513 greater sum than \$500, unless the guest, before ~~prior to~~ the
514 loss or damage, files with the operator an inventory of the
515 guest's effects and the value thereof and the operator is given
516 the opportunity to inspect such effects and check them against
517 such inventory. The operator of a public lodging establishment
518 or vacation rental is not liable or responsible to any guest for
519 the loss of effects listed in such inventory in a total amount
520 exceeding \$1,000.

521 Section 16. Section 509.141, Florida Statutes, is amended
522 to read:

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523 509.141 Refusal of admission and ejection of undesirable
524 guests; notice; procedure; penalties for refusal to leave.-

525 (1) The operator of any public lodging establishment,
526 vacation rental, or public food service establishment may remove
527 or cause to be removed from such establishment, in the manner
528 hereinafter provided, any guest of the establishment who, while
529 on the premises of the establishment, illegally possesses or
530 deals in controlled substances as defined in chapter 893 or is
531 intoxicated, profane, lewd, or brawling; who indulges in any
532 language or conduct which disturbs the peace and comfort of
533 other guests or which injures the reputation, dignity, or
534 standing of the establishment; who, in the case of a public
535 lodging establishment or vacation rental, fails to make payment
536 of rent at the agreed-upon rental rate by the agreed-upon
537 checkout time; who, in the case of a public lodging
538 establishment or vacation rental, fails to check out by the time
539 agreed upon in writing by the guest and public lodging
540 establishment or vacation rental at check-in unless an extension
541 of time is agreed to by the public lodging establishment or
542 vacation rental and guest before ~~prior to~~ checkout; who, in the
543 case of a public food service establishment, fails to make
544 payment for food, beverages, or services; or who, in the opinion
545 of the operator, is a person the continued entertainment of whom
546 would be detrimental to such establishment. The admission to, or
547 the removal from, such establishment may ~~shall~~ not be based upon
548 race, creed, color, sex, physical disability, or national
549 origin.

550 (2) The operator of any public lodging establishment,
551 vacation rental, or public food service establishment shall

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552 notify such guest that the establishment no longer desires to
553 entertain the guest and shall request that such guest
554 immediately depart from the establishment. Such notice may be
555 given orally or in writing. If the notice is in writing, it
556 shall be as follows:

557

558 "You are hereby notified that this establishment no longer
559 desires to entertain you as its guest, and you are requested to
560 leave at once. To remain after receipt of this notice is a
561 misdemeanor under the laws of this state."

562

563 If such guest has paid in advance, the establishment shall, at
564 the time such notice is given, tender to such guest the unused
565 portion of the advance payment; however, the establishment may
566 withhold payment for each full day that the guest has been
567 entertained at the establishment for any portion of the 24-hour
568 period of such day.

569 (3) Any guest who remains or attempts to remain in any such
570 establishment after being requested to leave commits ~~is guilty~~
571 ~~of~~ a misdemeanor of the second degree, punishable as provided in
572 s. 775.082 or s. 775.083.

573 (4) If any person is illegally on the premises of any
574 public lodging establishment, vacation rental, or public food
575 service establishment, the operator of such establishment may
576 call upon any law enforcement officer of this state for
577 assistance. It is the duty of such law enforcement officer, upon
578 the request of such operator, to place under arrest and take
579 into custody for violation of this section any guest who
580 violates subsection (3) in the presence of the officer. If a

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581 warrant has been issued by the proper judicial officer for the
582 arrest of any violator of subsection (3), the officer shall
583 serve the warrant, arrest the person, and take the person into
584 custody. Upon arrest, with or without warrant, the guest will be
585 deemed to have given up any right to occupancy or to have
586 abandoned such right of occupancy of the premises, and the
587 operator of the establishment may then make such premises
588 available to other guests. However, the operator of the
589 establishment shall employ all reasonable and proper means to
590 care for any personal property which may be left on the premises
591 by such guest and shall refund any unused portion of moneys paid
592 by such guest for the occupancy of such premises.

593 Section 17. Section 509.142, Florida Statutes, is amended
594 to read:

595 509.142 Conduct on premises; refusal of service.—The
596 operator of a public lodging establishment, vacation rental, or
597 public food service establishment may refuse accommodations or
598 service to any person whose conduct on the premises of the
599 establishment displays intoxication, profanity, lewdness, or
600 brawling; who indulges in language or conduct such as to disturb
601 the peace or comfort of other guests; who engages in illegal or
602 disorderly conduct; who illegally possesses or deals in
603 controlled substances as defined in chapter 893; or whose
604 conduct constitutes a nuisance. Such refusal may not be based
605 upon race, creed, color, sex, physical disability, or national
606 origin.

607 Section 18. Section 509.144, Florida Statutes, is amended
608 to read:

609 509.144 Prohibited handbill distribution in a public

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610 lodging establishment or vacation rental; penalties.-

611 (1) As used in this section, the term:

612 (a) "Handbill" means a flier, leaflet, pamphlet, or other
613 written material that advertises, promotes, or informs persons
614 about a person, business, company, or food service establishment
615 but does not include employee communications permissible under
616 the National Labor Relations Act, other communications protected
617 by the First Amendment to the United States Constitution, or
618 communications about public health, safety, or welfare
619 distributed by a federal, state, or local governmental entity or
620 a public or private utility.

621 (b) "Without permission" means without the expressed
622 written permission of the owner, manager, or agent of the owner
623 or manager of the public lodging establishment or vacation
624 rental where a sign is posted prohibiting advertising or
625 solicitation in the manner provided in subsection (5).

626 (c) "At or in a public lodging establishment or vacation
627 rental" means any property under the sole ownership or control
628 of a public lodging establishment or vacation rental.

629 (2) Any person, agent, contractor, or volunteer who is
630 acting on behalf of a person, business, company, or food service
631 establishment and who, without permission, delivers,
632 distributes, or places, or attempts to deliver, distribute, or
633 place, a handbill at or in a public lodging establishment or
634 vacation rental commits a misdemeanor of the first degree,
635 punishable as provided in s. 775.082 or s. 775.083.

636 (3) Any person who, without permission, directs another
637 person to deliver, distribute, or place, or attempts to deliver,
638 distribute, or place, a handbill at or in a public lodging

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639 establishment or vacation rental commits a misdemeanor of the
640 first degree, punishable as provided in s. 775.082 or s.
641 775.083. Any person sentenced under this subsection shall be
642 ordered to pay a minimum fine of \$500 in addition to any other
643 penalty imposed by the court.

644 (4) In addition to any penalty imposed by the court, a
645 person who violates subsection (2) or subsection (3) must:

646 (a) ~~Shall~~ Pay a minimum fine of \$2,000 for a second
647 violation.

648 (b) ~~Shall~~ Pay a minimum fine of \$3,000 for a third or
649 subsequent violation.

650 (5) For purposes of this section, a public lodging
651 establishment or vacation rental that intends to prohibit
652 advertising or solicitation, as described in this section, at or
653 in such establishment must comply with the following
654 requirements when posting a sign prohibiting such solicitation
655 or advertising:

656 (a) There must appear prominently on any sign referred to
657 in this subsection, in letters of not less than 2 inches in
658 height, the terms "no advertising" or "no solicitation" or terms
659 that indicate the same meaning.

660 (b) The sign must be posted conspicuously.

661 (c) If the main office of a ~~the~~ public lodging
662 establishment is immediately accessible by entering the office
663 through a door from a street, parking lot, grounds, or other
664 area outside such establishment, the sign must be placed on a
665 part of the main office, such as a door or window, and the sign
666 must face the street, parking lot, grounds, or other area
667 outside such establishment.

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668 (d) If the main office of a ~~the~~ public lodging
669 establishment is not immediately accessible by entering the
670 office through a door from a street, parking lot, grounds, or
671 other area outside such establishment, the sign must be placed
672 in the immediate vicinity of the main entrance to such
673 establishment, and the sign must face the street, parking lot,
674 grounds, or other area outside such establishment.

675 (6) Any personal property, including, but not limited to,
676 any vehicle, item, object, tool, device, weapon, machine, money,
677 security, book, or record, that is used or attempted to be used
678 as an instrumentality in the commission of, or in aiding and
679 abetting in the commission of, a person's third or subsequent
680 violation of this section, whether or not comprising an element
681 of the offense, is subject to seizure and forfeiture under the
682 Florida Contraband Forfeiture Act.

683 Section 19. Subsections (1), (2), and (3) of section
684 509.162, Florida Statutes, are amended to read:

685 509.162 Theft of personal property; detaining and arrest of
686 violator; theft by employee.-

687 (1) Any law enforcement officer or operator of a public
688 lodging establishment, vacation rental, or public food service
689 establishment who has probable cause to believe that theft of
690 personal property belonging to such establishment has been
691 committed by a person and that the officer or operator can
692 recover such property or the reasonable value thereof by taking
693 the person into custody may, for the purpose of attempting to
694 effect such recovery or for prosecution, take such person into
695 custody on the premises and detain such person in a reasonable
696 manner and for a reasonable period of time. If the operator

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697 takes the person into custody, a law enforcement officer shall
698 be called to the scene immediately. The taking into custody and
699 detention by a law enforcement officer or operator of a public
700 lodging establishment, vacation rental, or public food service
701 establishment, if done in compliance with this subsection, does
702 not render such law enforcement officer or operator criminally
703 or civilly liable for false arrest, false imprisonment, or
704 unlawful detention.

705 (2) Any law enforcement officer may arrest, either on or
706 off the premises and without warrant, any person if there is
707 probable cause to believe that person has committed theft in a
708 public lodging establishment, vacation rental, or ~~in a~~ public
709 food service establishment.

710 (3) Any person who resists the reasonable effort of a law
711 enforcement officer or operator of a public lodging
712 establishment, vacation rental, or public food service
713 establishment to recover property which the law enforcement
714 officer or operator had probable cause to believe had been
715 stolen from the public lodging establishment, vacation rental,
716 or public food service establishment, and who is subsequently
717 found to be guilty of theft of the subject property, is guilty
718 of a misdemeanor of the first degree, punishable as provided in
719 s. 775.082 or s. 775.083, unless such person did not know, or
720 did not have reason to know, that the person seeking to recover
721 the property was a law enforcement officer or the operator. For
722 purposes of this section, the charge of theft and the charge of
723 resisting apprehension may be tried concurrently.

724 Section 20. Section 509.2015, Florida Statutes, is amended
725 to read:

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726 509.2015 Telephone surcharges by public lodging
727 establishments and vacation rentals.-

728 (1) A public lodging establishment or vacation rental that
729 ~~which~~ imposes a surcharge for any telephone call must post
730 notice of such surcharge in a conspicuous place located by each
731 telephone from which a call which is subject to a surcharge may
732 originate. Such notice must be plainly visible and printed on a
733 sign that is not less than 3 inches by 5 inches in size, and
734 such notice shall clearly state if the surcharge applies whether
735 or not the telephone call has been attempted or completed.

736 (2) The division may, pursuant to s. 509.261 or s. 509.606,
737 suspend or revoke the license of, or impose a fine against, any
738 public lodging establishment or vacation rental that violates
739 subsection (1).

740 Section 21. Subsections (1), (2), and (3) of section
741 509.211, Florida Statutes, are amended to read:

742 509.211 Safety regulations.-

743 (1) Each bedroom or apartment in each public lodging/
744 establishment or vacation rental must ~~shall~~ be equipped with an
745 approved locking device on each door opening to the outside, to
746 an adjoining room or apartment, or to a hallway.

747 (2)(a) It is unlawful for any person to use within any
748 public lodging establishment, vacation rental, or public food
749 service establishment any fuel-burning wick-type equipment for
750 space heating unless such equipment is vented so as to prevent
751 the accumulation of toxic or injurious gases or liquids.

752 (b) Any person who violates ~~the provisions of~~ paragraph (a)
753 commits a misdemeanor of the second degree, punishable as
754 provided in s. 775.082 or s. 775.083.

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755 (3) Each public lodging establishment or vacation rental
756 that is three or more stories in height must have safe and
757 secure railings on all balconies, platforms, and stairways, and
758 all such railings must be properly maintained and repaired. The
759 division may impose administrative sanctions for violations of
760 this subsection pursuant to s. 509.261.

761 Section 22. Section 509.2112, Florida Statutes, is amended
762 to read:

763 509.2112 Public lodging establishments and vacation rentals
764 three stories or more in height; inspection rules.—The Division
765 of Hotels and Restaurants of the Department of Business and
766 Professional Regulation is directed to provide rules to require
767 that:

768 (1) Every public lodging establishment or vacation rental
769 that is three stories or more in height in the state file a
770 certificate stating that any and all balconies, platforms,
771 stairways, and railways have been inspected by a person
772 competent to conduct such inspections and are safe, secure, and
773 free of defects.

774 (2) The information required under subsection (1) be filed
775 commencing January 1, 1991, and every 3 years thereafter, with
776 the Division of Hotels and Restaurants and the applicable county
777 or municipal authority responsible for building and zoning
778 permits.

779 (3) If a public lodging establishment or vacation rental
780 that is three or more stories in height fails to file the
781 information required in subsection (1), the Division of Hotels
782 and Restaurants shall impose administrative sanctions pursuant
783 to s. 509.261.

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784 Section 23. Subsections (2) and (3), paragraph (a) of
785 subsection (4), and subsection (6) of section 509.215, Florida
786 Statutes, are amended to read:

787 509.215 Firesafety.—

788 (2) Any public lodging establishment or vacation rental, as
789 defined in this chapter, which is of three stories or more and
790 for which the construction contract was let before October 1,
791 1983, shall be equipped with:

792 (a) A system which complies with subsection (1); or

793 (b) An approved sprinkler system for all interior
794 corridors, public areas, storage rooms, closets, kitchen areas,
795 and laundry rooms, less individual guest rooms, if the following
796 conditions are met:

797 1. There is a minimum 1-hour separation between each guest
798 room and between each guest room and a corridor.

799 2. The building is constructed of noncombustible materials.

800 3. The egress conditions meet the requirements of s. 5-3 of
801 the Life Safety Code, NFPA 101.

802 4. The building has a complete automatic fire detection
803 system which meets the requirements of NFPA-72A and NFPA-72E,
804 including smoke detectors in each guest room individually
805 annunciating to a panel at a supervised location.

806 (3) Notwithstanding any other provision of law to the
807 contrary, this section applies only to those public lodging
808 establishments and vacation rentals in a building wherein more
809 than 50 percent of the units in the building are advertised or
810 held out to the public as available for transient occupancy.

811 (4)(a) Special exception to the provisions of this section
812 shall be made for a public lodging establishment or vacation

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813 rental structure that is individually listed in the National
 814 Register of Historic Places pursuant to the National Historic
 815 Preservation Act of 1966, as amended; or is a contributing
 816 property to a National Register-listed district; or is
 817 designated as a historic property, or as a contributing property
 818 to a historic district under the terms of a local preservation
 819 ordinance.

820 (6) Specialized smoke detectors for the deaf and hearing
 821 impaired shall be available upon request by guests in public
 822 lodging establishments or vacation rentals at a rate of at least
 823 one such smoke detector per 50 dwelling units or portions
 824 thereof, not to exceed five such smoke detectors per public
 825 lodging facility.

826 Section 24. Subsection (9) of section 509.221, Florida
 827 Statutes, is amended to read:

828 509.221 Sanitary regulations.-

829 (9) Subsections (2), (5), and (6) do not apply to any
 830 facility or unit classified as a ~~vacation rental~~, nontransient
 831 apartment, or timeshare project as described in s. 509.242(1)(c)
 832 and (f) s. 509.242(1)(e), (d), and (g).

833 Section 25. Subsection (2) of section 509.241, Florida
 834 Statutes, is amended to read:

835 509.241 Licenses required; exceptions.-

836 (2) APPLICATION FOR LICENSE.-Each person who plans to open
 837 a public lodging establishment or a public food service
 838 establishment shall apply for and receive a license from the
 839 division before ~~prior to~~ the commencement of operation. A
 840 condominium association, as defined in s. 718.103, which does
 841 not own any units classified as a timeshare project ~~vacation~~

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842 ~~rentals or timeshare projects~~ under s. 509.242(1)(f) or as a
843 vacation rental ~~s. 509.242(1)(c) or (g)~~ is not required to apply
844 for or receive a public lodging establishment license.

845 Section 26. Subsection (1) of section 509.242, Florida
846 Statutes, is amended to read:

847 509.242 Public lodging establishments; classifications.—

848 (1) A public lodging establishment is ~~shall be~~ classified
849 as a hotel, motel, nontransient apartment, transient apartment,
850 bed and breakfast inn, or timeshare project, ~~or vacation rental~~
851 if the establishment satisfies the following criteria:

852 (a) *Hotel*.—A hotel is any public lodging establishment
853 containing sleeping room accommodations for 25 or more guests
854 and providing the services generally provided by a hotel and
855 recognized as a hotel in the community in which it is situated
856 or by the industry.

857 (b) *Motel*.—A motel is any public lodging establishment
858 which offers rental units with an exit to the outside of each
859 rental unit, daily or weekly rates, offstreet parking for each
860 unit, a central office on the property with specified hours of
861 operation, a bathroom or connecting bathroom for each rental
862 unit, and at least six rental units, and which is recognized as
863 a motel in the community in which it is situated or by the
864 industry.

865 (c) ~~Vacation rental. A vacation rental is any unit or group~~
866 ~~of units in a condominium or cooperative or any individually or~~
867 ~~collectively owned single family, two family, three family, or~~
868 ~~four family house or dwelling unit that is also a transient~~
869 ~~public lodging establishment but that is not a timeshare~~
870 ~~project.~~

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871 ~~(d)~~ *Nontransient apartment.*—A nontransient apartment is a
 872 building or complex of buildings in which 75 percent or more of
 873 the units are available for rent to nontransient tenants.

874 (d)~~(e)~~ *Transient apartment.*—A transient apartment is a
 875 building or complex of buildings in which more than 25 percent
 876 of the units are advertised or held out to the public as
 877 available for transient occupancy.

878 (e)~~(f)~~ *Bed and breakfast inn.*—A bed and breakfast inn is a
 879 family home structure, with no more than 15 sleeping rooms,
 880 which has been modified to serve as a transient public lodging
 881 establishment, which provides the accommodation and meal
 882 services generally offered by a bed and breakfast inn, and which
 883 is recognized as a bed and breakfast inn in the community in
 884 which it is situated or by the hospitality industry.

885 (f)~~(g)~~ *Timeshare project.*—A timeshare project is a
 886 timeshare property, as defined in chapter 721, that is located
 887 in this state and that is also a transient public lodging
 888 establishment.

889 Section 27. Subsection (1) of section 509.251, Florida
 890 Statutes, is amended to read:

891 509.251 License fees.—

892 (1) The division shall adopt, by rule, a schedule of fees
 893 to be paid by each public lodging establishment as a
 894 prerequisite to issuance or renewal of a license. Such fees
 895 shall be based on the number of rental units in the
 896 establishment. The aggregate fee per establishment charged any
 897 public lodging establishment may not exceed \$1,000; however, the
 898 fees described in paragraphs (a) and (b) may not be included as
 899 part of the aggregate fee subject to this cap. ~~Vacation rental~~

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900 ~~units or~~ Timeshare projects within separate buildings or at
901 separate locations but managed by one licensed agent may be
902 combined in a single license application, and the division shall
903 charge a license fee as if all units in the application are in a
904 single licensed establishment. The fee schedule shall require an
905 establishment which applies for an initial license to pay the
906 full license fee if application is made during the annual
907 renewal period or more than 6 months before the next such
908 renewal period and one-half of the fee if application is made 6
909 months or less before such period. The fee schedule shall
910 include fees collected for the purpose of funding the
911 Hospitality Education Program, pursuant to s. 509.302, which are
912 payable in full for each application regardless of when the
913 application is submitted.

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

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

923 Section 28. Subsection (1) of section 509.281, Florida
924 Statutes, is amended to read:

925 509.281 Prosecution for violation; duty of state attorney;
926 penalties.-

927 (1) The division or an agent of the division, upon
928 ascertaining by inspection that any public lodging

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929 establishment, vacation rental, or public food service
930 establishment is being operated contrary to the provisions of
931 this chapter, shall make complaint and cause the arrest of the
932 violator, and the state attorney, upon request of the division
933 or agent, shall prepare all necessary papers and conduct the
934 prosecution. The division shall proceed in the courts by
935 mandamus or injunction whenever such proceedings may be
936 necessary to the proper enforcement of the provisions of this
937 chapter, of the rules adopted pursuant hereto, or of orders of
938 the division.

939 Section 29. Paragraph (a) of subsection (2) of section
940 509.302, Florida Statutes, is amended to read:

941 509.302 Hospitality Education Program.—

942 (2)(a) All public lodging establishments, ~~and all~~ public
943 food service establishments, and vacation rentals licensed under
944 this chapter shall pay an annual fee of no more than \$10, which
945 shall be included in the annual license fee and used for the
946 sole purpose of funding the Hospitality Education Program.

947 Section 30. Section 509.4005, Florida Statutes, is amended
948 to read:

949 509.4005 Applicability of ss. 509.401-509.417.—Sections
950 509.401-509.417 apply only to guests in transient occupancy in a
951 public lodging establishment or vacation rental.

952 Section 31. Subsection (1) of section 509.401, Florida
953 Statutes, is amended to read:

954 509.401 Operator's right to lockout.—

955 (1) If, upon a reasonable determination by an operator of a
956 public lodging establishment or vacation rental, a guest has
957 accumulated a large outstanding account at such establishment,

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958 the operator may lock the guest out of the guest's rental unit
959 for the purpose of requiring the guest to confront the operator
960 and arrange for payment on the account. Such arrangement must be
961 in writing, and a copy must be furnished to the guest.

962 Section 32. Section 509.402, Florida Statutes, is amended
963 to read:

964 509.402 Operator's right to recover premises.—If the guest
965 of a public lodging establishment or vacation rental vacates the
966 premises without notice to the operator and the operator
967 reasonably believes the guest does not intend to satisfy the
968 outstanding account, the operator may recover the premises. Upon
969 recovery of the premises, the operator shall make an itemized
970 inventory of any property belonging to the guest and store such
971 property until a settlement or a final court judgment is
972 obtained on the guest's outstanding account. Such inventory
973 shall be conducted by the operator and at least one other person
974 who is not an agent of the operator.

975 Section 33. Subsections (1) and (2) of section 509.405,
976 Florida Statutes, are amended to read:

977 509.405 Complaint; requirements.—To obtain an order
978 authorizing the issuance of a writ of distress upon final
979 judgment, the operator must first file with the clerk of the
980 court a complaint reciting and showing the following
981 information:

982 (1) A statement as to the amount of the guest's account at
983 the public lodging establishment or vacation rental.

984 (2) A statement that the plaintiff is the operator of the
985 public lodging establishment or vacation rental in which the
986 guest has an outstanding account. If the operator's interest in

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987 such account is based on written documents, a copy of such
988 documents shall be attached to the complaint.

989 Section 34. Section 509.409, Florida Statutes, is amended
990 to read:

991 509.409 Writ; inventory.—When the officer seizes
992 distrainable property, either under s. 509.407 or s. 509.408,
993 and such property is seized on the premises of a public lodging
994 establishment or vacation rental, the officer shall inventory
995 the property, hold those items which, upon appraisal, would
996 appear to satisfy the plaintiff's claim, and return the
997 remaining items to the defendant. If the defendant cannot be
998 found, the officer shall hold all items of property. The officer
999 shall release the property only pursuant to law or a court
1000 order.

1001 Section 35. Subsection (2) of section 509.417, Florida
1002 Statutes, is amended to read:

1003 509.417 Writ; sale of property distrained.—

1004 (2) At the time any property levied on is sold, it must be
1005 advertised two times, the first advertisement being at least 10
1006 days before the sale. All property so levied on may be sold on
1007 the premises of the public lodging establishment or the vacation
1008 rental or at the courthouse door.

1009 Section 36. This act shall take effect July 1, 2018.