

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~~

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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

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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.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 883 Public Lodging Establishments
SPONSOR(S): Business & Consumer Affairs Subcommittee, Horner
TIED BILLS: IDEN./SIM. **BILLS:** SB 476

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee	14 Y, 0 N, As CS	Morton	Creamer
2) Government Operations Appropriations Subcommittee		Topp	Topp
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill combines the classifications in chapter 509, F.S., of resort condominiums and resort dwellings as 'vacation rentals.' 'Vacation Rental' is defined as "any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family dwelling house or dwelling unit that is also a transient public lodging establishment."

The bill provides that vacation rentals are deemed residential property and prohibits local governments from prohibiting vacation rentals or treating them differently from other residential property based on their classification, use, or occupancy. This would remove authority for local governments to ban or restrict vacation rentals.

The bill also revises the membership of the advisory council for the Division of Hotels and Restaurant of the Department of Business and Professional Regulation (DBPR).

The bill has no fiscal impact.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Vacation rentals are properties generally designed for residential purposes, such as single- and multi-family homes which are rented out to tourists on vacation. In Florida, they are divided into two main categories: resort condominiums and resort dwellings and are regulated as transient public lodging establishments.

Public lodging establishments are overseen by the Division of Hotels and Restaurants within the Department of Business and Professional Regulation pursuant to chapter 509, F.S. Regulation of public lodging establishments is pre-empted to the state.

The chapter divides public lodging establishments first by the length of time they are rented, and then by their use.

Occupancy is 'transient' if the parties intend it to be temporary. If the unit is not the guest's primary residence, there is a rebuttable presumption that occupancy is transient. Likewise, occupancy is nontransient if the operator intends the unit to be the guest's primary residence.

Public lodging establishments that are rented more than three times a year for periods of less than a month are deemed transient. Nontransient public lodging establishments are rented for periods of more than a month. If an establishment is advertised for rent, it is also considered a public lodging establishment and classified as transient or nontransient based on the advertised rental term.

Public lodging establishments are further classified based on use, as follows:

Hotel:	Accommodations for 25 or more guests and provides services generally provided by a hotel and recognized as such by the community or industry (i.e. Hilton).
Motel:	At least six rental units with an exit to outside, off-street parking, and a bathroom, onsite central office, which is recognized as a motel in the community or the industry (i.e. Motel 6)
Bed and breakfast inn:	Modified family home providing accommodation and meal services generally offered by a bed and breakfast inn, and recognized as such in the community or the hospitality industry.
Nontransient apartment or roominghouse:	Rental accommodations intended to be used as primary residences. (75 percent or more nontransient).
Transient apartment or roominghouse:	Rental accommodations with a substantial portion of units held for transient guests (more than 25 percent transient).
Roominghouse:	Any public lodging establishment not otherwise classified.
Resort dwelling:	Individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit which is rented more than three times in a calendar year for periods of less than 1 month or which is advertised as such.
Resort condominium:	Any unit or group of units in a condominium, cooperative, or timeshare plan which is rented more than three times a year for periods of less than 1 month or is advertised as such.

All public lodging establishments are licensed, but the degree of inspections and the relevant fees differ based on the type of establishment.

The Division inspects resort condominiums and resort dwellings on receiving complaints only. The Division receives about three complaints of unlicensed resort condominiums or resort dwellings each year.

For resort dwellings and resort condominiums, licenses are issued under three categories:

1. Single – Individual owner, may include multiple units
2. Group – Licensed agent for all units rented
3. Collective – Licensed agent for up to 75 units separately located throughout a district

Operators of resort dwellings and resort condominiums pay a base fee of \$150, a Hospitality Education Program fee of \$10 and a unit fee. Unit fees on single and group licensees are incremental based on the total number of rental units. Collective licensees pay \$10 per unit.

The total fees licensees pay range from \$170-\$350 for single and group licensees, and are capped for collective licensees at \$910.

The regulation of public lodging establishments is preempted to the state. Local governments can conduct inspections of public lodging establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code. However, some local governments have been prohibiting or restricting transient resort condominiums and dwellings by ordinance.¹

Section 509.291, F.S., establishes an advisory council currently consists of 10 members. The Secretary of the DBPR appoints seven members, with the remaining three being statutory members representing the Florida Restaurant and Lodging Association, the Florida Apartment Association, and the Florida Association of Realtors.

The advisory council does not currently have a representative specifically from the resort condominium or resort dwelling industry. However, the Division reports that the council does have appointed members who work for licensees that own resort condominium properties, in addition to other types of public lodging or public food service establishments.

Proposed Changes

The bill reclassifies resort condominiums and resort dwellings as 'vacation rentals,' a new classification combining the two previous classes. 'Vacation Rental' is defined as "any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family dwelling house or dwelling unit that is also a transient public lodging establishment."

The bill provides that vacation rentals are deemed residential property and prohibits local governments from prohibiting vacation rentals or treating them differently from other residential property based on their classification, use, or occupancy. This would remove authority for local governments to ban or restrict vacation rentals.

¹ See, e.g., Kim Hackett, "Property owners fight with Venice again on rental ban," Sarasota Herald Tribune (February 8, 2011), available at <http://www.heraldtribune.com/article/20110208/ARTICLE/102081021>; Scott Wyman, "Possible Fort Lauderdale Restrictions On Short-Term Rentals Draw Opposition," Sun-Sentinel (February 24, 2011), available at http://weblogs.sun-sentinel.com/news/politics/broward/blog/2011/02/possible_fort_lauderdale_restr.html.

The bill revises the membership of the advisory council for the Division of Hotels and Restaurant by reducing the number of members appointed by the Secretary of DBPR from seven to six and adding one representative from the Florida Vacation Rental Managers Association.

The bill provides an effective date of July 1, 2011.

B. SECTION DIRECTORY:

Section 1 amends s. 509.032, F.S., to provide that vacation rentals are residential property for purposes of provisions related to the treatment of such properties.

Section 2 amends s. 509.221, F.S., to conform changes by the bill related to facilities or units classified as vacation rentals.

Section 3 amends s. 509.241, F.S., to conform to changes by the bill.

Section 4 amends s. 509.242, F.S., to provide that public lodging establishments formerly classified as resort condominiums and resort dwellings are classified as vacation rentals and defines that term.

Section 5 amends s. 509.251, F.S., to conform to changes by the bill.

Section 6 amends s. 509.291, F.S., to increase the membership of an advisory council and provide for the Florida Vacation Rental Managers Association to appoint a member.

Section 7 amends ss. 381.008, F.S., to conform to changes by the bill.

Section 8 amends s. 386.203, F.S., to conform to changes to definitions by the bill.

Section 9 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that the counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 883 Public Lodging Establishments
SPONSOR(S): Business & Consumer Affairs Subcommittee, Horner
TIED BILLS: **IDEN./SIM. BILLS:** SB 476

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee	14 Y, 0 N, As CS	Morton	Creamer
2) Government Operations Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill combines resort condominiums and resort dwellings into a new classification of public lodging establishment, 'vacation rentals' and prohibits local governments from treating vacation rentals differently than residential property. The bill also revises the membership of the advisory council for the Division of Hotels and Restaurant of the Department of Business and Professional Regulation.

The bill has no fiscal impact.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Vacation rentals are properties generally designed for residential purposes, such as single- and multi-family homes which are rented out to tourists on vacation. In Florida, they are divided into two main categories: resort condominiums and resort dwellings and are regulated as transient public lodging establishments.

Public lodging establishments are overseen by the Division of Hotels and Restaurants within the Department of Business and Professional Regulation pursuant to chapter 509, F.S. Regulation of public lodging establishments is pre-empted to the state.

The chapter divides public lodging establishments first by the length of time they are rented, and then by their use.

Occupancy is 'transient' if the parties intend it to be temporary. If the unit is not the guest's primary residence, there is a rebuttable presumption that occupancy is transient. Likewise, occupancy is nontransient if the operator intends the unit to be the guest's primary residence.

Public lodging establishments that are rented more than three times a year for periods of less than a month are deemed transient. Nontransient public lodging establishments are rented for periods of more than a month. If an establishment is advertised for rent, it is also considered a public lodging establishment and classified as transient or nontransient based on the advertised rental term.

Public lodging establishments are further classified based on use, as follows:

Hotel:	Accommodations for 25 or more guests and provides services generally provided by a hotel and recognized as such by the community or industry (i.e. Hilton).
Motel:	At least six rental units with an exit to outside, offstreet parking, and a bathroom, onsite central office, which is recognized as a motel in the community or the industry (i.e. Motel 6)
Bed and breakfast inn:	Modified family home providing accommodation and meal services generally offered by a bed and breakfast inn, and recognized as such in the community or the hospitality industry.
Nontransient apartment or roominghouse:	Rental accommodations intended to be used as primary residences. (75 percent or more nontransient).
Transient apartment or roominghouse:	Rental accommodations with a substantial portion of units held for transient guests (more than 25 percent transient).
Roominghouse:	Any public lodging establishment not otherwise classified.
Resort dwelling:	Individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit which is rented more than three times in a calendar year for periods of less than 1 month or which is advertised as such.
Resort condominium:	Any unit or group of units in a condominium, cooperative, or timeshare plan which is rented more than three times a year for periods of less than 1 month or is advertised as such.

All public lodging establishments are licensed, but the degree of inspections and the relevant fees differ based on the type of establishment.

The Division inspects resort condominiums and resort dwellings on receiving complaints only. The Division receives about three complaints of unlicensed resort condominiums or resort dwellings each year.

For resort dwellings and resort condominiums, licenses are issued under three categories:

1. Single – Individual owner, may include multiple units
2. Group – Licensed agent for all units rented
3. Collective – Licensed agent for up to 75 units separately located throughout a district

Operators of resort dwellings and resort condominiums pay a base fee of \$150, a Hospitality Education Program fee of \$10 and a unit fee. Unit fees on single and group licensees are incremental based on the total number of rental units. Collective licensees pay \$10 per unit.

The total fees licensees pay range from \$170-\$350 for single and group licensees, and are capped for collective licensees at \$910.

Section 509.291, F.S., establishes an advisory council currently consists of 10 members. The Secretary of the DBPR appoints seven members, with the remaining three being statutory members representing the Florida Restaurant and Lodging Association, the Florida Apartment Association, and the Florida Association of Realtors.

The advisory council does not currently have a representative specifically from the resort condominium or resort dwelling industry. However, the Division reports that the council does have appointed members who work for licensees that own resort condominium properties, in addition to other types of public lodging or public food service establishments.

Proposed Changes

The bill reclassifies resort condominiums and resort dwellings as 'vacation rentals,' a new classification combining the two previous classes. 'Vacation Rental' is defined as "any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family dwelling house or dwelling unit that is also a transient public lodging establishment."

The bill provides that vacation rentals are deemed residential property and prohibits local governments from prohibiting vacation rentals or treating them differently from other residential property based on their classification, use, or occupancy.

The bill revises the membership of the advisory council for the Division of Hotels and Restaurant of the Department of Business and Professional Regulation by reducing the number of members appointed by the Secretary of DBPR from seven to six and add one representative from the Florida Vacation Rental Managers Association to the division's advisory council.

The bill provides an effective date of July 1, 2011.

B. SECTION DIRECTORY:

Section 1 amends s. 509.032, F.S., to provide that vacation rentals are residential property for purposes of provisions related to the treatment of such properties.

Section 2 amends s. 509.241, F.S., to conform to changes by the bill.

Section 3 amends s. 509.242, F.S., to provide that public lodging establishments formerly classified as resort condominiums and resort dwellings are classified as vacation rentals and defines that term.

Section 4 amends s. 509.251, F.S., to conform to changes by the bill.

Section 5 amends s. 509.291, F.S., to increase the membership of an advisory council and provide for the Florida Vacation Rental Managers Association to appoint a member.

Section 6 amends ss. 381.008, F.S., to conform to changes by the bill.

Section 7 amends s. 386.203, F.S., to conform to changes by the bill.

Section 8 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that the counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

CS/HB 883 - Public Lodging Establishments

GENERAL BILL by Business & Consumer Affairs Subcommittee and Horner

Public Lodging Establishments: Provides that vacation rentals are residential property for purposes of provision related to treatment of such properties; provides that public lodging establishments formerly classified as resort condominiums & resort dwellings are classified as vacation rentals; defines term "vacation rental"; revises membership of advisory council of Division of Hotels & Restaurants of DBPR; requires Florida Vacation Rental Managers Association to designate member to serve on advisory council.

Effective Date: July 1, 2011

Last Event: 1st Reading on Friday, March 18, 2011 6:11 PM

Referred Committees and Committee Actions:

- Business & Consumer Affairs Subcommittee
On agenda for: 03/15/11 8:00 AM Notice
Favorable With Committee Substitute (*final action*) See Votes
- Government Operations Appropriations Subcommittee
On agenda for: 03/22/11 12:00 PM Notice
- Economic Affairs Committee

Related Bills:

Bill #	Subject	Relationship
SB 476	Public Lodging Establishments	Similar

Bill Text:

Committee Substitute 1
Original Filed Version

Staff Analysis:

Chamber	Committee
House	Government Operations Appropriations Subcommittee 3/21/2011 5:21:42 PM
House	Business & Consumer Affairs Subcommittee 3/16/2011 7:47:38 PM
House	Business & Consumer Affairs Subcommittee 3/11/2011 5:17:06 PM

Vote History:

(no votes recorded)

Bill History:

Event	Time	Member	Committee
1st Reading	Friday, March 18, 2011 6:11 PM		
Added to Government Operations Appropriations Subcommittee agenda	Friday, March 18, 2011 4:20 PM		Government Operations Appropriations Subcommittee
Now in Government Operations Appropriations Subcommittee	Friday, March 18, 2011 2:58 PM		Government Operations Appropriations Subcommittee
Referred to Economic Affairs Committee	Friday, March 18, 2011 2:58 PM		Economic Affairs Committee
Referred to Government Operations Appropriations Subcommittee	Friday, March 18, 2011 2:58 PM		Government Operations Appropriations Subcommittee
CS Filed	Thursday, March 17, 2011 8:06 AM		
Laid on Table under Rule 7.19(a)	Thursday, March 17, 2011 8:06 AM		
Reported out of Business & Consumer Affairs Subcommittee	Wednesday, March 16, 2011 7:45 PM		Business & Consumer Affairs Subcommittee
Favorable with CS by Business & Consumer Affairs Subcommittee	Tuesday, March 15, 2011 11:00 AM		Business & Consumer Affairs Subcommittee
PCS added to Business & Consumer Affairs Subcommittee agenda	Friday, March 11, 2011 4:16 PM		Business & Consumer Affairs Subcommittee
1st Reading	Tuesday, March 08, 2011 10:24 PM		
Now in Business & Consumer Affairs Subcommittee	Thursday, March 03, 2011 9:49 AM		Business & Consumer Affairs Subcommittee
Referred to Economic Affairs Committee	Thursday, March 03, 2011 9:49 AM		Economic Affairs Committee
Referred to Government Operations Appropriations Subcommittee	Thursday, March 03, 2011 9:49 AM		Government Operations Appropriations Subcommittee
Referred to Business & Consumer Affairs Subcommittee	Thursday, March 03, 2011 9:49 AM		Business & Consumer Affairs Subcommittee

By Senator Evers

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A bill to be entitled
An act relating to public lodging establishments;
amending s. 509.013, F.S.; revising definitions;
amending s. 509.032, F.S.; conforming provisions to
changes made by the act; providing that vacation
rentals are residential property for purposes of
provisions related to the treatment of such
properties; amending s. 509.101, F.S.; requiring that
the operator of a vacation rental retain any advance
payment or deposit made for the vacation rental until
the occupancy begins or is cancelled; amending s.
509.221, F.S.; clarifying that vacation rentals are
exempt from certain sanitary rules; amending s.
509.241, F.S.; clarifying an exemption from licensure
for condominium associations that do not own vacation
rentals; amending s. 509.242, F.S.; providing that
public lodging establishments formerly classified as
resort condominiums and resort dwellings are
classified as vacation rentals and defining the term
"vacation rental"; amending s. 509.251, F.S., relating
to license fees; conforming provisions to changes made
by the act; deleting an obsolete provision; amending
s. 509.291, F.S.; increasing the membership of an
advisory council to the Division of Hotels and
Restaurants of the Department of Business and
Professional Regulation; providing for the Florida
Vacation Rental Managers Association to appoint a
member to the advisory council; providing an effective
date.

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

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

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

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

1. "Transient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for a period of less than 181 ~~periods of less than 30 days or 1 calendar month, whichever is less,~~ or which is advertised or held out to the public as a place regularly rented to guests.

2. "Nontransient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 181 ~~30 days or 1 calendar month,~~ ~~whichever is less,~~ or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 181 ~~30 days or 1 calendar month.~~

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

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59 Section 2. Paragraph (a) of subsection (2) and subsection
60 (7) of section 509.032, Florida Statutes, are amended to read:
61 509.032 Duties.—

62 (2) INSPECTION OF PREMISES.—

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

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88 such as facilities licensed under part II of chapter 400 or
89 under chapter 429.

90 (7) PREEMPTION AUTHORITY.—

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

103 (b) Notwithstanding any other provision of law to the
104 contrary, vacation rentals, as defined in s. 509.242(1)(c), are
105 deemed residential property and may not be prohibited or treated
106 differently than other residential properties based solely on
107 their classification, use, or occupancy.

108 Section 3. Present subsection (3) of section 509.101,
109 Florida Statutes, is renumbered as subsection (4), and a new
110 subsection (3) is added to that section, to read:

111 509.101 Establishment rules; posting of notice; food
112 service inspection report; maintenance of guest register; mobile
113 food dispensing vehicle registry.—

114 (3) It is the duty of each operator of a vacation rental,
115 as defined in s. 509.242(1)(c), to retain any advance payment or
116 deposit paid by a guest until the occupancy begins or is

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117 cancelled pursuant to any rental agreement or the operator's
118 cancellation rules.

119 Section 4. Subsection (9) of section 509.221, Florida
120 Statutes, is amended to read:

121 509.221 Sanitary regulations.—

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

126 Section 5. Subsection (2) of section 509.241, Florida
127 Statutes, is amended to read:

128 509.241 Licenses required; exceptions.—

129 (2) APPLICATION FOR LICENSE.—Each person who plans to open
130 a public lodging establishment or a public food service
131 establishment shall apply for and receive a license from the
132 division prior to the commencement of operation. A condominium
133 association, as defined in s. 718.103, which does not own any
134 units classified as vacation rentals ~~resort condominiums~~ under
135 s. 509.242(1) (c) is ~~shall~~ not be required to apply for or
136 receive a public lodging establishment license.

137 Section 6. Subsection (1) of section 509.242, Florida
138 Statutes, is amended to read:

139 509.242 Public lodging establishments; classifications.—

140 (1) A public lodging establishment shall be classified as a
141 hotel, motel, ~~resort condominium~~, nontransient apartment,
142 transient apartment, roominghouse, bed and breakfast inn, or
143 vacation rental ~~resort dwelling~~ if the establishment satisfies
144 the following criteria:

145 (a) *Hotel*.—A hotel is any public lodging establishment

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146 containing sleeping room accommodations for 25 or more guests
147 and providing the services generally provided by a hotel and
148 recognized as a hotel in the community in which it is situated
149 or by the industry.

150 (b) *Motel*.—A motel is any public lodging establishment
151 which offers rental units with an exit to the outside of each
152 rental unit, daily or weekly rates, offstreet parking for each
153 unit, a central office on the property with specified hours of
154 operation, a bathroom or connecting bathroom for each rental
155 unit, and at least six rental units, and which is recognized as
156 a motel in the community in which it is situated or by the
157 industry.

158 (c) Vacation rental ~~Resort condominium~~.—A vacation rental
159 is any unit or group of units in a condominium, cooperative, or
160 timeshare plan or any individually or collectively owned single-
161 family, two-family, three-family, or four-family dwelling house
162 or dwelling unit that is also a transient public lodging
163 establishment. A resort condominium is any unit or group of
164 units in a condominium, cooperative, or timeshare plan which is
165 rented more than three times in a calendar year for periods of
166 less than 30 days or 1 calendar month, whichever is less, or
167 which is advertised or held out to the public as a place
168 regularly rented for periods of less than 30 days or 1 calendar
169 month, whichever is less.

170 (d) *Nontransient apartment or roominghouse*.—A nontransient
171 apartment or roominghouse is a building or complex of buildings
172 in which 75 percent or more of the units are available for rent
173 to nontransient tenants.

174 (e) *Transient apartment or roominghouse*.—A transient

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175 apartment or roominghouse is a building or complex of buildings
176 in which more than 25 percent of the units are advertised or
177 held out to the public as available for transient occupancy.

178 (f) *Roominghouse.*—A roominghouse is any public lodging
179 establishment that may not be classified as a hotel, motel,
180 resort condominium, nontransient apartment, bed and breakfast
181 inn, or transient apartment under this section. A roominghouse
182 includes, but is not limited to, a boardinghouse.

183 ~~(g) *Resort dwelling.*—A resort dwelling is any individually~~
184 ~~or collectively owned one family, two family, three family, or~~
185 ~~four family dwelling house or dwelling unit which is rented more~~
186 ~~than three times in a calendar year for periods of less than 30~~
187 ~~days or 1 calendar month, whichever is less, or which is~~
188 ~~advertised or held out to the public as a place regularly rented~~
189 ~~for periods of less than 30 days or 1 calendar month, whichever~~
190 ~~is less.~~

191 (g)(h) *Bed and breakfast inn.*—A bed and breakfast inn is a
192 family home structure, with no more than 15 sleeping rooms,
193 which has been modified to serve as a transient public lodging
194 establishment, which provides the accommodation and meal
195 services generally offered by a bed and breakfast inn, and which
196 is recognized as a bed and breakfast inn in the community in
197 which it is situated or by the hospitality industry.

198 Section 7. Subsection (1) of section 509.251, Florida
199 Statutes, is amended to read:

200 509.251 License fees.—

201 (1) The division shall adopt, by rule, a schedule of fees
202 to be paid by each public lodging establishment as a
203 prerequisite to issuance or renewal of a license. Such fees

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204 shall be based on the number of rental units in the
 205 establishment. The aggregate fee per establishment charged any
 206 public lodging establishment shall not exceed \$1,000; however,
 207 the fees described in paragraphs (a) and (b) may not be included
 208 as part of the aggregate fee subject to this cap. Vacation
 209 rental ~~Resort condominium~~ units within separate buildings or at
 210 separate locations but managed by one licensed agent may be
 211 combined in a single license application, and the division shall
 212 charge a license fee as if all units in the application are in a
 213 single licensed establishment. ~~Resort dwelling units may be~~
 214 ~~licensed in the same manner as condominium units.~~ The fee
 215 schedule shall require an establishment which applies for an
 216 initial license to pay the full license fee if application is
 217 made during the annual renewal period or more than 6 months
 218 prior to the next such renewal period and one-half of the fee if
 219 application is made 6 months or less prior to such period. The
 220 fee schedule shall include fees collected for the purpose of
 221 funding the Hospitality Education Program, pursuant to s.
 222 509.302, which are payable in full for each application
 223 regardless of when the application is submitted.

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

229 (b) A license renewal filed with the division within 30
 230 days after the expiration date shall be accompanied by a
 231 delinquent fee as prescribed by rule, not to exceed \$50, in
 232 addition to the renewal fee and any other fees required by law.

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233 A license renewal filed with the division more than 30 but not
234 more than 60 days after the expiration date shall be accompanied
235 by a delinquent fee as prescribed by rule, not to exceed \$100,
236 in addition to the renewal fee and any other fees required by
237 law.

238 Section 8. Subsection (1) of section 509.291, Florida
239 Statutes, is amended to read:

240 509.291 Advisory council.—

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

243 (a) The Secretary of Business and Professional Regulation
244 shall appoint seven voting members to the advisory council. Each
245 member appointed by the secretary must be an operator of an
246 establishment licensed under this chapter and shall represent
247 the industries regulated by the division, except that one member
248 appointed by the secretary must be a layperson representing the
249 general public and one member must be a hospitality education
250 administrator from an institution of higher education of this
251 state. Such members of the council shall serve staggered terms
252 of 4 years.

253 (b) The Florida Restaurant and Lodging Association shall
254 designate one representative to serve as a voting member of the
255 council. The Florida Vacation Rental Managers Association shall
256 designate one representative to serve as a voting member of the
257 council. The Florida Apartment Association and the Florida
258 Association of Realtors shall each designate one representative
259 to serve as a voting member of the council.

260 (c) Any member who fails to attend three consecutive
261 council meetings without good cause may be removed from the

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262 council by the secretary.

263 Section 9. This act shall take effect July 1, 2011.



212134

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2011	.	
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	.	

The Committee on Regulated Industries (Norman) recommended the following:

1 **Senate Amendment to Amendment (501282) (with title**
2 **amendment)**

3
4 Delete lines 36 - 54
5 and insert:

6 (7) PREEMPTION AUTHORITY.-

7 (a) The regulation of public lodging establishments and
8 public food service establishments, including, but not limited
9 to, ~~the inspection of public lodging establishments and public~~
10 ~~food service establishments for compliance with the sanitation~~
11 ~~standards, inspections, adopted under this section, and the~~
12 ~~regulation of food safety protection standards for required~~



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13 training and testing of ~~food service establishment~~ personnel,
14 and matters related to the nutritional content and marketing of
15 foods offered in such establishments, are preempted to the
16 state. This paragraph ~~subsection~~ does not preempt the authority
17 of a local government or local enforcement district to conduct
18 inspections of public lodging and public food service
19 establishments for compliance with the Florida Building Code and
20 the Florida Fire Prevention Code, pursuant to ss. 553.80 and 21
21 633.022.

22 (b) Notwithstanding any local law, ordinance, or
23 regulation, a vacation rental, as described in s. 509.242(1)(c),
24 is deemed residential property and may not be prohibited or
25 treated differently than other residential property based solely
26 on its classification, use, or occupancy.

27
28
29 Between lines 171 and 172
30 insert:

31 Section 6. Subsection (1) of section 509.261, Florida
32 Statutes, is amended to read:

33 509.261 Revocation or suspension of licenses; fines;
34 procedure.—

35 (1) Any public lodging establishment or public food service
36 establishment that has operated or is operating in violation of
37 this chapter or the rules of the division, operating without a
38 license, or operating with a suspended or revoked license may be
39 subject by the division to:

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

41 (b) Mandatory completion attendance, at personal expense,



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42 of a remedial at an educational program administered sponsored
43 by a food safety training program provider whose program has
44 been approved by the division, as provided in s. 509.049 the
45 Hospitality Education Program; and

46 (c) The suspension, revocation, or refusal of a license
47 issued pursuant to this chapter.

48
49

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

51 And the title is amended as follows:

52 Delete line 243

53 and insert:

54 changes made by the act; amending s. 509.261, F.S.;

55 revising mandatory education requirements for certain

56 violations; amending s. 509.291, F.S.;



501282

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2011	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Norman) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (2) and subsection
(7) of section 509.032, Florida Statutes, are amended to read:

509.032 Duties.—

(2) INSPECTION OF PREMISES.—

(a) The division has responsibility and jurisdiction for
all inspections required by this chapter. The division has
responsibility for quality assurance. Each licensed
establishment shall be inspected at least biannually, except for



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13 transient and nontransient apartments, which shall be inspected
14 at least annually, and shall be inspected at such other times as
15 the division determines is necessary to ensure the public's
16 health, safety, and welfare. The division shall establish a
17 system to determine inspection frequency. Public lodging units
18 classified as vacation rentals ~~resort condominiums or resort~~
19 ~~dwellings~~ are not subject to this requirement, but shall be made
20 available to the division upon request. If, during the
21 inspection of a public lodging establishment classified for
22 renting to transient or nontransient tenants, an inspector
23 identifies vulnerable adults who appear to be victims of
24 neglect, as defined in s. 415.102, or, in the case of a building
25 that is not equipped with automatic sprinkler systems, tenants
26 or clients who may be unable to self-preserve in an emergency,
27 the division shall convene meetings with the following agencies
28 as appropriate to the individual situation: the Department of
29 Health, the Department of Elderly Affairs, the area agency on
30 aging, the local fire marshal, the landlord and affected tenants
31 and clients, and other relevant organizations, to develop a plan
32 which improves the prospects for safety of affected residents
33 and, if necessary, identifies alternative living arrangements
34 such as facilities licensed under part II of chapter 400 or
35 under chapter 429.

36 (7) PREEMPTION AUTHORITY.—

37 (a) The regulation of public lodging establishments and
38 public food service establishments, including, but not limited
39 to, the inspection of public lodging establishments and public
40 food service establishments for compliance with the sanitation
41 standards adopted under this section, and the regulation of food



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42 safety protection standards for required training and testing of
43 food service establishment personnel are preempted to the state.
44 This paragraph subsection does not preempt the authority of a
45 local government or local enforcement district to conduct
46 inspections of public lodging and public food service
47 establishments for compliance with the Florida Building Code and
48 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
49 633.022.

50 (b) Notwithstanding any local law, ordinance, or
51 regulation, a vacation rental, as described in s. 509.242(1)(c),
52 is deemed residential property and may not be prohibited or
53 treated differently than other residential property based solely
54 on its classification, use, or occupancy.

55 Section 2. Subsection (9) of section 509.221, Florida
56 Statutes, is amended to read:

57 509.221 Sanitary regulations.—

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

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

64 509.241 Licenses required; exceptions.—

65 (2) APPLICATION FOR LICENSE.—Each person who plans to open
66 a public lodging establishment or a public food service
67 establishment shall apply for and receive a license from the
68 division prior to the commencement of operation. A condominium
69 association, as defined in s. 718.103, which does not own any
70 units classified as vacation rentals ~~resort condominiums~~ under



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71 s. 509.242(1)(c) is ~~shall~~ not be required to apply for or
72 receive a public lodging establishment license.

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

75 509.242 Public lodging establishments; classifications.—

76 (1) A public lodging establishment shall be classified as a
77 hotel, motel, ~~resort condominium~~, nontransient apartment,
78 transient apartment, roominghouse, bed and breakfast inn, or
79 vacation rental ~~resort dwelling~~ if the establishment satisfies
80 the following criteria:

81 (a) *Hotel*.—A hotel is any public lodging establishment
82 containing sleeping room accommodations for 25 or more guests
83 and providing the services generally provided by a hotel and
84 recognized as a hotel in the community in which it is situated
85 or by the industry.

86 (b) *Motel*.—A motel is any public lodging establishment
87 which offers rental units with an exit to the outside of each
88 rental unit, daily or weekly rates, offstreet parking for each
89 unit, a central office on the property with specified hours of
90 operation, a bathroom or connecting bathroom for each rental
91 unit, and at least six rental units, and which is recognized as
92 a motel in the community in which it is situated or by the
93 industry.

94 (c) *Vacation rental* ~~Resort condominium~~.—A vacation rental
95 ~~resort condominium~~ is any unit or group of units in a
96 condominium, cooperative, or timeshare plan or any individually
97 or collectively owned single-family, two-family, or four-family
98 house or dwelling unit that is also a transient public lodging
99 establishment which is rented more than three times in a



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100 ~~calendar year for periods of less than 30 days or 1 calendar~~
101 ~~month, whichever is less, or which is advertised or held out to~~
102 ~~the public as a place regularly rented for periods of less than~~
103 ~~30 days or 1 calendar month, whichever is less.~~

104 (d) *Nontransient apartment or roominghouse.*—A nontransient
105 apartment or roominghouse is a building or complex of buildings
106 in which 75 percent or more of the units are available for rent
107 to nontransient tenants.

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

112 (f) *Roominghouse.*—A roominghouse is any public lodging
113 establishment that may not be classified as a hotel, motel,
114 ~~resort condominium,~~ nontransient apartment, bed and breakfast
115 inn, vacation rental, or transient apartment under this section.
116 A roominghouse includes, but is not limited to, a boardinghouse.

117 ~~(g) *Resort dwelling.*—A resort dwelling is any individually~~
118 ~~or collectively owned one family, two family, three family, or~~
119 ~~four family dwelling house or dwelling unit which is rented more~~
120 ~~than three times in a calendar year for periods of less than 30~~
121 ~~days or 1 calendar month, whichever is less, or which is~~
122 ~~advertised or held out to the public as a place regularly rented~~
123 ~~for periods of less than 30 days or 1 calendar month, whichever~~
124 ~~is less.~~

125 (g) ~~(h)~~ *Bed and breakfast inn.*—A bed and breakfast inn is a
126 family home structure, with no more than 15 sleeping rooms,
127 which has been modified to serve as a transient public lodging
128 establishment, which provides the accommodation and meal



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129 services generally offered by a bed and breakfast inn, and which
130 is recognized as a bed and breakfast inn in the community in
131 which it is situated or by the hospitality industry.

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

134 509.251 License fees.—

135 (1) The division shall adopt, by rule, a schedule of fees
136 to be paid by each public lodging establishment as a
137 prerequisite to issuance or renewal of a license. Such fees
138 shall be based on the number of rental units in the
139 establishment. The aggregate fee per establishment charged any
140 public lodging establishment shall not exceed \$1,000; however,
141 the fees described in paragraphs (a) and (b) may not be included
142 as part of the aggregate fee subject to this cap. Vacation
143 rental ~~Resort condominium~~ units within separate buildings or at
144 separate locations but managed by one licensed agent may be
145 combined in a single license application, and the division shall
146 charge a license fee as if all units in the application are in a
147 single licensed establishment. ~~Resort dwelling units may be~~
148 ~~licensed in the same manner as condominium units.~~ The fee
149 schedule shall require an establishment which applies for an
150 initial license to pay the full license fee if application is
151 made during the annual renewal period or more than 6 months
152 prior to the next such renewal period and one-half of the fee if
153 application is made 6 months or less prior to such period. The
154 fee schedule shall include fees collected for the purpose of
155 funding the Hospitality Education Program, pursuant to s.
156 509.302, which are payable in full for each application
157 regardless of when the application is submitted.



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

163 (b) A license renewal filed with the division within 30
164 days after the expiration date shall be accompanied by a
165 delinquent fee as prescribed by rule, not to exceed \$50, in
166 addition to the renewal fee and any other fees required by law.
167 A license renewal filed with the division more than 30 but not
168 more than 60 days after the expiration date shall be accompanied
169 by a delinquent fee as prescribed by rule, not to exceed \$100,
170 in addition to the renewal fee and any other fees required by
171 law.

172 Section 6. Subsection (1) of section 509.291, Florida
173 Statutes, is amended to read:

174 509.291 Advisory council.—

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

176 (a) The Secretary of Business and Professional Regulation
177 shall appoint six ~~seven~~ voting members to the advisory council.
178 Each member appointed by the secretary must be an operator of an
179 establishment licensed under this chapter and shall represent
180 the industries regulated by the division, except that one member
181 appointed by the secretary must be a layperson representing the
182 general public and one member must be a hospitality education
183 administrator from an institution of higher education of this
184 state. Such members of the council shall serve staggered terms
185 of 4 years.

186 (b) The Florida Restaurant and Lodging Association shall



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187 designate one representative to serve as a voting member of the
188 council. The Florida Vacation Rental Managers Association shall
189 designate one representative to serve as a voting member of the
190 council. The Florida Apartment Association and the Florida
191 Association of Realtors shall each designate one representative
192 to serve as a voting member of the council.

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

196 Section 7. Paragraph (c) of subsection (8) of section
197 381.008, Florida Statutes, is amended to read:

198 381.008 Definitions of terms used in ss. 381.008-
199 381.00897.—As used in ss. 381.008-381.00897, the following words
200 and phrases mean:

201 (8) "Residential migrant housing"—A building, structure,
202 mobile home, barracks, or dormitory, and any combination thereof
203 on adjacent property which is under the same ownership,
204 management, or control, and the land appertaining thereto, that
205 is rented or reserved for occupancy by five or more seasonal or
206 migrant farmworkers, except:

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

210 Section 8. Subsection (4) of section 386.203, Florida
211 Statutes, is amended to read:

212 386.203 Definitions.—As used in this part:

213 (4) "Designated smoking guest rooms at public lodging
214 establishments" means the sleeping rooms and directly associated
215 private areas, such as bathrooms, living rooms, and kitchen



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216 areas, if any, rented to guests for their exclusive transient
217 occupancy in public lodging establishments, including hotels,
218 motels, vacation rentals ~~resort condominiums~~, transient
219 apartments, transient lodging establishments, rooming houses,
220 boarding houses, ~~resort dwellings~~, bed and breakfast inns, and
221 the like; and designated by the person or persons having
222 management authority over such public lodging establishment as
223 rooms in which smoking may be permitted.

224 Section 9. This act shall take effect July 1, 2011.

225

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

227 And the title is amended as follows:

228 Delete everything before the enacting clause
229 and insert:

230

A bill to be entitled

231

An act relating to public lodging establishments;

232

amending s. 509.032, F.S.; conforming provisions to

233

changes made by the act; providing that vacation

234

rentals are residential property for purposes of

235

provisions related to the treatment of such

236

properties; amending ss. 509.221 and 509.241, F.S.;

237

conforming provisions to changes made by the act;

238

amending s. 509.242, F.S.; providing that public

239

lodging establishments formerly classified as resort

240

condominiums and resort dwellings are classified as

241

vacation rentals; defining the term "vacation rental";

242

amending s. 509.251, F.S.; conforming provisions to

243

changes made by the act; amending s. 509.291, F.S.;

244

revising membership of the advisory council of the



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245 Division of Hotels and Restaurants of the Department
246 of Business and Professional Regulation; requiring the
247 Florida Vacation Rental Managers Association to
248 designate a member to serve on the advisory council;
249 amending ss. 381.008 and 386.203, F.S.; conforming
250 provisions to changes made by the act; providing an
251 effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: SB 476

INTRODUCER: Senator Evers

SUBJECT: Public Lodging Establishments

DATE: March 19, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill amends the definitions of transient and nontransient public lodging establishments to increase the maximum period that a transient public lodging establishment is regularly rented from less than 30 days to less than 181 days. The bill also increases the minimum length of each rental period required to classify as a nontransient establishment from at least 30 days to at least 181 days. Rentals that exceed the maximum on a regular basis would be classified as nontransient public lodging establishments.

The bill replaces the classifications “resort condominium” and “resort dwelling” with the single term “vacation rental.” It provides that vacation rentals are residential property and may not be prohibited or treated differently than other residential properties based solely on their classification, use, or occupancy. The bill requires that vacation rental operators must keep advance payment or deposit until occupancy starts or upon proper cancellation.

The bill increases the membership of the advisory council from 10 members to 11 members. The new voting member must represent the Florida Vacation Rental Managers Association.

This bill substantially amends the following sections of the Florida Statutes: 509.013, 509.032, 509.101, 509.221, 509.241, 509.242, 509.251, and 509.291.

II. Present Situation:

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public

lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. According to the department, there are over 37,273 licensed public lodging establishments, including hotels, motels, nontransient and transient rooming houses, and resort condominiums and dwellings.¹

The term “public lodging establishments” includes transient and nontransient public lodging establishments.² The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the length of the rentals.

Section 509.013(4)(a)1., F.S., defines a “transient public lodging establishment” to mean:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

Section 509.013(4)(a)2., F.S., defines a “nontransient public lodging establishment” to mean:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of “public lodging establishment”:

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
2. Any hospital, nursing home, sanitarium, assisted living facility, or other similar place;
3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;
5. Any migrant labor camp or residential migrant housing permitted by the Department of Health; under ss. 381.008-381.00895; and

¹ See *Annual Report, Fiscal Year 2009-2010*, Division of Hotels and Restaurants, Department of Business and Professional Regulation. A copy is available at: http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2009_10.pdf (Last visited March 1, 2011).

² Section 509.013(4)(a), F.S.

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

Public lodging establishments are classified as a hotel, motel, resort condominium, nontransient apartment, transient apartment, roominghouse, bed and breakfast inn, or resort dwelling.³

Section 509.242(1)(c), F.S., defines the term “resort condominium” as:

any unit or group of units in a condominium, cooperative, or timeshare plan which is rented more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented for periods of less than 30 days or 1 calendar month, whichever is less.

Section 509.242(1)(g), F.S., defines the term “resort dwelling” as

any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit which is rented more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented for periods of less than 30 days or 1 calendar month, whichever is less.

According to the vacation rental industry, the terms resort condominium and resort dwellings are not commonly used in the industry. Instead these classes of public lodging establishments are termed “vacation rentals.”

The 37,273 public lodging establishments licensed by the division are distributed as follows:⁴

- Nontransient apartments – 17,413 licenses covering 980,556 units;
- Transient apartments – 993 licenses covering 13,752 units;
- Nontransient roominghouses – 153 licenses covering 2,100 units;
- Transient roominghouses – 211 licenses covering 3,091 units;
- Resort condominiums – 3,174 licenses covering 91,453 units; and
- Resort dwellings – 10,602 licenses covering 25,112 units

Advisory Council

Section 509.291, F.S., creates a 10-member advisory council to assist the division by advising it on matters affecting the private-sector entities regulated by the division. The stated purpose is to “promote better relations, understanding, and cooperation between such industries and the division; to suggest means of better protecting the health, welfare, and safety of persons using the services offered by such industries; to give the division the benefit of its knowledge and experience concerning the industries and individual businesses affected by the laws and rules

³ Section 509.242(1), F.S.

⁴ *2011 Legislative Analysis for SB 476*, Office of Legislative Affairs, Department of Business and Professional Regulation (January 31, 2011).

administered by the division; to promote and coordinate the development of programs to educate and train personnel for such industries; and perform other duties that may be prescribed by law.”

Real Estate Professionals

Part I of ch. 475, F.S., provides for the licensing and regulation of the practice real estate brokers, sales associates, and real estate schools. Section 475.011(11), F.S., provides an exception to the licensing and regulation. It exempts persons, partnerships, corporations, or other legal entities which, for another and for compensation or other valuable consideration, rent or advertise for rent, for transient occupancy, any public lodging establishment licensed under ch. 509, F.S.,

III. Effect of Proposed Changes:

Transient and Nontransient Lodging Establishments

The bill amends s. 509.013(4)(a), F.S., to revise the definitions for the terms transient public lodging establishment and nontransient public lodging establishment. The amended definition increases the maximum rental period required to classify as a transient public lodging establishment from less than 30 days to less than 181 days. The bill also increases the minimum length of each rental period required to classify as a nontransient establishment from at least 30 days to at least 181 days.

The definition of nontransient public lodging establishment provided in the bill may conflict with exemption in s. 509.013(4)(b)4., F.S., which exempts from the licensure requirement single-family, two-family, three-family, and four-family houses or dwellings and condominiums, timeshares, and cooperatives, provided that no more than four rental units within a single complex of buildings are available for rent and they are rented for more than 30 days or one-month periods. In effect, the bill may limit the number of long-term vacation rentals requiring licensure to only those with more than four rental units in a complex.

Vacation Rentals

The bill also amends s. 509.242(1)(c), F.S., to replace the term “resort condominium” with the term “vacation rental.” It deletes the definition for the term “resort dwelling” in s. 509.242(1)(g), F.S. It defines a “vacation rental” to mean any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family dwelling house or dwelling unit that is also a transient public lodging establishment.

The bill also amends ss. 509.032(2), 509.221(9), 509.241, and 509.251, F.S., to replace the term “resort condominium or resort dwellings” with the term “vacation rentals.”

The bill creates s. 509.032(7)(b), F.S., to provide that vacation rentals are residential property and may not be prohibited or treated differently than other residential properties based solely on their classification, use, or occupancy.

The bill creates s. 509.101(3), F.S., to require each operator of a vacation rental to retain advance payment or deposit paid by a guest until the occupancy begins or is cancelled according to the rental agreement or the operator's cancellation rules.

Advisory Council

The bill amends s. 509.291(1)(a), F.S., to increase the membership of the advisory council from 10 members to 11 members. The new voting member must represent the Florida Vacation Rental Managers Association.⁵

Effective Date

The bill would take effect on July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill increases from less than 30 days to less than 181 days the maximum rental period required to be classified as a transient public lodging establishment. It also increases from at least 30 days to at least 181 days the minimum length of each rental period required to be classified as a nontransient establishment. This may require some dwellings, including condominiums, timeshares, and multi-family residences, that rented four or more times per year for periods of several months, which are not currently required to be licensed, to obtain a license as a vacation rental. This change may increase license fees collected by the division.

⁵ The Florida Vacation Rental Managers Association is a statewide association that represents the companies and professionals who rent and manage resort, vacation and other short-term rentals. Information about the association can be found at: <http://www.fvrma.org/> (Last visited March 2, 2011).

C. Government Sector Impact:

As noted in the Private Sector Impact section of this analysis, if the bill increases the number of dwellings that may require a public lodging establishment license, there would be an increase in license fees collected by the division.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Although the bill does not directly relate to the practice of real estate professions under part I of ch. 475, F.S., by increasing the maximum rental period required to classify an establishment as a transient public lodging establishment, the bill would affect the persons who are exempt from regulation as real estate professionals, as provided s. 475.011(11), F.S. According to a representative for the Florida Association of Realtors, such unlicensed persons would likely be responsible for retaining the advance payment deposit required in s. 509.101(3), F.S.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

