



# INDUSTRY BULLETIN

## for Florida's Hospitality Industry



ATTENTION: Transient Lodging Establishments

Number: 2003-01

Date: 2003 March 03

**SUBJECT: House Rule Information for Transient Guest Ejection**

Some transient lodging establishments are experiencing difficulties enforcing the guest ejection provisions of section 509.141, Florida Statutes (FS), where the guest claims to be a non-transient tenant. Ejection provisions allow a transient lodging establishment to provide notice orally or in writing that it no longer desires to entertain the guest and to request that the guest depart immediately. If any person is illegally on the premises following such notice, the operator may call upon a law enforcement officer for assistance, who may place the guest under arrest for committing a misdemeanor pursuant to section 775.082 or 775.083, FS. However, before an officer can make an arrest, the officer must have probable cause that the misdemeanor has been committed. For ejection violations, the officer must first fully ascertain as part of a probable cause determination that the person is a transient guest and not a non-transient tenant. This is because section 509.034, FS, provides that the ejection section of Chapter 509, FS, applies only to transient guests and cannot be used to evict a non-transient tenant in lieu of the landlord/tenant eviction procedures in Chapter 83, FS.

Therefore, transient lodging operators who wish to preserve their ejection rights must clearly establish at the outset that the guest's status is that of transient guest, and institute policies and procedures to preclude any inference that the person is a non-transient tenant. This is especially important where the guest has no other permanent residence because section 509.013(11), FS, states: *"There is a rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient."* If a person claims status as a tenant and the transient lodging operator cannot clearly rebut that claim, then law enforcement personnel will not have the probable cause necessary to make an arrest or assist in ejecting the person.

Section 509.101(1), FS, allows the establishment of reasonable house rules governing guests. The following may be useful for establishing and maintaining a proprietor/transient guest relationship:

1. At the time of registration, require each guest to list a home or permanent residence address. If the guestroom is the sole residence of the guest, then there is a legally rebuttable presumption established that the guest is non-transient. Conversely, if the guest has a home or permanent residence other than the guestroom then a legally rebuttable presumption is established that the guest is transient.
2. Require that registration include a specific written checkout date. If the operator chooses to extend the occupancy, establish a new checkout date in writing.
3. The guest registration card should state that the guest acknowledges that the establishment is a transient facility, that the guest's occupancy is permitted only in the status of a transient guest and that no permanent residence is planned by the guest or extended by the operator.
4. Post signs in the registration area and in individual rooms clearly stating the establishment is for transient occupancy only.
5. Assure that rules governing occupancy and checkout times are prominently displayed in each room.

Chapter 509, FS, governs treatment of guests at transient establishments licensed by DBPR's Division of Hotels and Restaurants. Transient guests are subject to ejection from a property and possible arrest for failure to comply with sections 509.141, 142 and 143, FS.

**FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

Jeb Bush, Governor

**Division of Hotels and Restaurants**

Diane Carr, Secretary

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