

2009 Florida Statutes

**PART I
PUBLIC LODGING AND PUBLIC FOOD SERVICE
ESTABLISHMENTS
(ss. 509.013-509.417)**

Chapter 509, Part 1

**DIVISION OF HOTELS AND RESTAURANTS
Department of Business and Professional Regulation**

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2009 FLORIDA STATUTES

CHAPTER 509 LODGING AND FOOD SERVICE ESTABLISHMENTS; MEMBERSHIP CAMPGROUNDS

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

- (1) "Division" means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.
- (2) "Operator" means the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or public food service establishment.
- (3) "Guest" means any patron, customer, tenant, lodger, boarder, or occupant of a public lodging establishment or public food service establishment.
- (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 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 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. 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.
- (b) The following are excluded from the definitions in paragraph (a):

- 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
 - 6. Any establishment inspected by the Department of Health and regulated by chapter 513.
- (5)(a) "Public food service establishment" means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.
- (b) The following are excluded from the definition in paragraph (a):
- 1. Any place maintained and operated by a public or private school, college, or university:
 - a. For the use of students and faculty; or
 - b. Temporarily to serve such events as fairs, carnivals, and athletic contests.

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- 2. Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:
 - a. For the use of members and associates; or
 - b. Temporarily to serve such events as fairs, carnivals, or athletic contests.
- 3. Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.
- 4. Any eating place maintained by a hospital, nursing home, sanitarium, assisted living facility, adult day care center, or other similar place that is regulated under s. 381.0072.
- 5. Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12.
- 6. Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation.
- 7. Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.
- 8. Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.
- 9. Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. 381.0072.
- 10. Any research and development test kitchen limited to the use of employees and which is not open to the general public.
- (6) "Director" means the Director of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.
- (7) "Single complex of buildings" means all buildings or structures that are owned, managed, controlled, or operated under one business name and are situated on the same tract or plot of land that is not separated by a public street or highway.
- (8) "Temporary food service event" means any event of 30 days or less in duration where food is prepared, served, or sold to the general public.
- (9) "Theme park or entertainment complex" means a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.
- (10) "Third-party provider" means, for purposes of s. 509.049, any provider of an approved food safety training program that provides training or such a training program to a public food service establishment that is not under common ownership or control with the provider.
- (11) "Transient establishment" means any public lodging establishment that is rented or leased to guests by an operator whose intention is that such guests' occupancy will be temporary.

(12) "Transient occupancy" means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.

(13) "Transient" means a guest in transient occupancy.

(14) "Nontransient establishment" means any public lodging establishment that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole residence of the guest.

(15) "Nontransient occupancy" means occupancy when it is the intention of the parties that the occupancy will not be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient.

(16) "Nontransient" means a guest in nontransient occupancy.

History.—s. 1, ch. 73-325; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 1, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; s. 2, ch. 83-241; s. 3, ch. 87-117; s. 31, ch. 88-90; s. 2, ch. 88-275; ss. 2, 51, 52, ch. 90-339; s. 1, ch. 91-40; s. 4, ch. 91-429; s. 21, ch. 92-180; s. 1, ch. 93-53; s. 14, ch. 93-133; s. 36, ch. 94-180; s. 202, ch. 94-218; s. 42, ch. 95-210; s. 3, ch. 95-314; s. 2, ch. 96-384; s. 245, ch. 99-8; s. 7, ch. 2004-292; s. 1, ch. 2008-55.

509.032 Duties.—

(1) GENERAL.—The division shall carry out all of the provisions of this chapter and all other applicable laws and rules relating to the inspection or regulation of public lodging establishments and public food service establishments for the purpose of safeguarding the public health, safety, and welfare. The division shall be responsible for ascertaining that an operator licensed under this chapter does not engage in any misleading advertising or unethical practices.

(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 transient and nontransient apartments, which shall be inspected at least annually, and shall be inspected at such other times as the division determines is necessary to ensure the public's health, safety, and welfare. The division shall establish a system to determine inspection frequency. Public lodging units classified as resort condominiums or resort dwellings are not subject to this requirement, but shall be made available to the division upon request. If, during the inspection of a public lodging establishment classified for renting to transient or nontransient tenants, an inspector identifies vulnerable adults who appear to be victims of neglect, as defined in s. 415.102, or, in the case of a building that is not equipped with automatic

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sprinkler systems, tenants or clients who may be unable to self-preserve in an emergency, the division shall convene meetings with the following agencies as appropriate to the individual situation: the Department of Health, the Department of Elderly Affairs, the area agency on aging, the local fire marshal, the landlord and affected tenants and clients, and other relevant organizations, to develop a plan which improves the prospects for safety of affected residents and, if necessary, identifies alternative living arrangements such as facilities licensed under part II of chapter 400 or under chapter 429.

(b) For purposes of performing required inspections and the enforcement of this chapter, the division has the right of entry and access to public lodging establishments and public food service establishments at any reasonable time.

(c) Public food service establishment inspections shall be conducted to enforce provisions of this part and to educate, inform, and promote cooperation between the division and the establishment.

(d) The division shall adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness in those establishments licensed under this chapter. These rules shall provide the standards and requirements for obtaining, storing, preparing, processing, serving, or displaying food in public food service establishments, approving public food service establishment facility plans, conducting necessary public food service establishment inspections for compliance with sanitation regulations, cooperating and coordinating with the Department of Health in epidemiological investigations, and initiating enforcement actions, and for other such responsibilities deemed necessary by the division. The division may not establish by rule any regulation governing the design, construction, erection, alteration, modification, repair, or demolition of any public lodging or public food service establishment. It is the intent of the Legislature to preempt that function to the Florida Building Commission and the State Fire Marshal through adoption and maintenance of the Florida Building Code and the Florida Fire Prevention Code. The division shall provide technical assistance to the commission in updating the construction standards of the Florida Building Code which govern public lodging and public food service establishments. Further, the division shall enforce the provisions of the Florida Building Code which apply to public lodging and public food service establishments in conducting any inspections authorized by this part. The division, or its agent, shall notify the local firesafety authority or the State Fire Marshal of any readily observable violation of a rule adopted under chapter 633 which relates to public lodging establishments or public food establishments, and the identification of such

violation does not require any firesafety inspection certification.

(e)1. Relating to facility plan approvals, the division may establish, by rule, fees for conducting plan reviews and may grant variances from construction standards in hardship cases, which variances may be less restrictive than the provisions specified in this section or the rules adopted under this section. A variance may not be granted pursuant to this section until the division is satisfied that:

- a. The variance shall not adversely affect the health of the public.
- b. No reasonable alternative to the required construction exists.
- c. The hardship was not caused intentionally by the action of the applicant.

2. The division's advisory council shall review applications for variances and recommend agency action. The division shall make arrangements to expedite emergency requests for variances, to ensure that such requests are acted upon within 30 days of receipt.

3. The division shall establish, by rule, a fee for the cost of the variance process. Such fee shall not exceed \$150 for routine variance requests and \$300 for emergency variance requests.

(f) In conducting inspections of establishments licensed under this chapter, the division shall determine if each coin-operated amusement machine that is operated on the premises of a licensed establishment is properly registered with the Department of Revenue. Each month the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed establishment that has on location a coin-operated amusement machine and that does not have an identifying certificate conspicuously displayed as required by s. 212.05(1)(h).

(g) In inspecting public food service establishments, the department shall provide each inspected establishment with the food-recovery brochure developed under s. 570.0725.

(3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE EVENTS.—The division shall:

- (a) Prescribe sanitary standards which shall be enforced in public food service establishments.
- (b) Inspect public lodging establishments and public food service establishments whenever necessary to respond to an emergency or epidemiological condition.
- (c) Administer a public notification process for temporary food service events and distribute educational materials that address safe food storage, preparation, and service procedures.
 - 1. Sponsors of temporary food service events shall notify the division not less than 3 days prior to the scheduled event of the type of food service proposed, the time and location of the event, a complete list of

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food service vendors participating in the event, the number of individual food service facilities each vendor will operate at the event, and the identification number of each food service vendor's current license as a public food service establishment or temporary food service event licensee. Notification may be completed orally, by telephone, in person, or in writing. A public food service establishment or food service vendor may not use this notification process to circumvent the license requirements of this chapter.

2. The division shall keep a record of all notifications received for proposed temporary food service events and shall provide appropriate educational materials to the event sponsors, including the food-recovery brochure developed under s. 570.0725.

3.a. A public food service establishment or other food service vendor must obtain one of the following classes of license from the division: an individual license, for a fee of no more than \$105, for each temporary food service event in which it participates; or an annual license, for a fee of no more than \$1,000, that entitles the licensee to participate in an unlimited number of food service events during the license period. The division shall establish license fees, by rule, and may limit the number of food service facilities a licensee may operate at a particular temporary food service event under a single license.

b. Public food service establishments holding current licenses from the division may operate under the regulations of such a license at temporary food service events of 3 days or less in duration.

(4) **STOP-SALE ORDERS.**—The division may stop the sale, and supervise the proper destruction, of any food or food product when the director or the director's designee determines that such food or food product represents a threat to the public safety or welfare. If the operator of a public food service establishment licensed under this chapter has received official notification from a health authority that a food or food product from that establishment has potentially contributed to any instance or outbreak of food-borne illness, the food or food product must be maintained in safe storage in the establishment until the responsible health authority has examined, sampled, seized, or requested destruction of the food or food product.

(5) **REPORTS REQUIRED.**—The division shall send the Governor a written report, which shall state, but not be limited to, the total number of inspections conducted by the division to ensure the enforcement of sanitary standards, the total number of inspections conducted in response to emergency or epidemiological conditions, the number of violations of each sanitary standard, and any recommendations for improved inspection procedures. The division shall also keep accurate account of all expenses arising out of the performance of its duties and all

fees collected under this chapter. The report shall be submitted by September 30 following the end of the fiscal year.

(6) **RULEMAKING AUTHORITY.**—The division shall adopt such rules as are necessary to carry out the provisions of this chapter.

(7) **PREEMPTION AUTHORITY.**—The regulation of public lodging establishments and public food service establishments, including, but not limited to, the inspection of public lodging establishments and public food service establishments for compliance with the sanitation standards adopted under this section, and the regulation of food safety protection standards for required training and testing of food service establishment personnel are preempted to the state. This subsection does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.022.

History.—ss. 1, 2, 9, ch. 6952, 1915; RGS 212, 213, 2130; s. 2, ch. 9264, 1923; CGL 245, 246, 3359; ss. 3, 4, ch. 16042, 1933; CGL 1936 Supp. 245, 246; s. 9, ch. 26945, 1951; s. 1, ch. 28129, 1953; ss. 1, 8, ch. 29821, 1955; s. 1, ch. 57-389; s. 1, ch. 63-420; ss. 12, 16, 35, ch. 69-106; s. 2, ch. 73-325; s. 135, ch. 73-333; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 39, 42, ch. 79-240; ss. 1, 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 3, 51, 52, ch. 90-339; s. 2, ch. 91-40; s. 4, ch. 91-429; s. 22, ch. 92-180; s. 2, ch. 93-53; s. 35, ch. 93-216; s. 19, ch. 94-314; s. 4, ch. 95-416; s. 137, ch. 95-418; s. 3, ch. 96-384; s. 1165, ch. 97-103; s. 1, ch. 98-275; s. 4, ch. 98-283; s. 246, ch. 99-8; s. 47, ch. 2000-141; s. 47, ch. 2000-154; s. 109, ch. 2000-349; s. 34, ch. 2001-186; s. 3, ch. 2001-372; s. 11, ch. 2002-48; s. 1, ch. 2002-299; s. 96, ch. 2006-197; s. 2, ch. 2008-55; s. 3, ch. 2008-134.

509.034 Application.—Sections 509.141-509.162 and 509.401-509.417 apply to transients only. This chapter may not be used to circumvent the procedural requirements of the Florida Residential Landlord and Tenant Act.

History.—ss. 3, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 4, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.035 Immediate closure due to severe public health threat.—The division shall, upon proper finding, immediately issue an order to close an establishment licensed under this chapter in the instance of a severe and immediate public health or safety or welfare threat as follows:

(1)(a) The director shall declare a public health threat upon a proper finding by the State Health Officer that the continued operation of a licensed establishment presents a severe and immediate threat to the public health.

(b) The director shall declare a threat to the public safety or welfare upon a proper

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finding by the director that the continued operation of a licensed establishment presents a severe and immediate threat to the public safety or welfare.

(2) Upon such determination, the division shall issue a notice to show cause and an emergency order of suspension. Such order shall be served upon the establishment by the division or its agent, and the establishment shall be closed. An operator who resists such closure is subject to further administrative action by the division and is punishable as provided in s. 509.281. The division shall provide an inspection within 24 hours following such closure and shall review all relevant information to determine whether the facility has met the requirements to resume operations.

(3) The division may attach a sign which states "Closed to Protect Public Health and Safety" to such an establishment and may require the licensee to immediately stop service until notification to the contrary is provided by the director.

(4) The division may further adopt rules for issuing emergency orders after business hours and on weekends and holidays in order to ensure the timely closure of an establishment under this section.

History.--ss. 5, 52, ch. 90-339; s. 3, ch. 91-40; s. 4, ch. 91-429; s. 3, ch. 93-53.

509.036 Public food service inspector standardization.--

(1) Any person performing required inspections of licensed public food service establishments for the division or its agent must:

- (a) Be standardized by a food service evaluation officer certified by the federal Food and Drug Administration;
- (b) Pass an approved food protection practices test as prescribed by s. 509.039; and
- (c) Pass a written examination to demonstrate knowledge of the laws and rules which regulate public food service establishments.

(2) The division or its agent shall provide a minimum of 20 hours of continuing education annually for each public food service inspector. This continuing education shall include instruction in techniques to prevent food-borne illness, sanitation, and a review of relevant laws.

(3) The division and its agent shall adopt rules in accordance with the provisions of chapter 120 to provide for disciplinary action in cases of inspector negligence. An inspector may be subject to suspension or dismissal for cause as set forth in s. 110.227.

(4) Any costs incurred as a direct result of the requirements of subsection (1) shall be funded from the Hotel and Restaurant Trust Fund from the amounts deposited from public food service establishment license fees.

History.--s. 6, ch. 90-339; s. 15, ch. 91-201; s. 56, ch. 91-297; s. 4, ch. 91-429; s. 23, ch. 92-180; s. 15, ch. 93-53; s. 31, ch. 2002-299.

509.039 Food service manager certification.--It is the duty of the division to adopt, by rule, food safety protection standards for the training and certification of all food service managers who are responsible for the storage, preparation, display, or serving of foods to the public in establishments regulated under this chapter. The standards adopted by the division shall be consistent with the Standards for Accreditation of Food Protection Manager Certification Programs adopted by the Conference for Food Protection. These standards are to be adopted by the division to ensure that, upon successfully passing a test, approved by the Conference for Food Protection, a manager of a food service establishment shall have demonstrated a knowledge of basic food protection practices. The division may contract with an organization offering a training and certification program that complies with division standards and results in a certification recognized by the Conference for Food Protection to conduct an approved test and certify all test results to the division. Other organizations offering programs that meet the same requirements may also conduct approved tests and certify all test results to the division. The division may charge the organization it contracts with a fee of not more than \$5 per certified test to cover the administrative costs of the division for the food service manager training and certification program. All managers employed by a food service establishment must have passed an approved test and received a certificate attesting thereto. Managers have a period of 30 days after employment to pass the required test. All public food service establishments must provide the division with proof of food service manager certification upon request, including, but not limited to, at the time of any division inspection of the establishment. The ranking of food service establishments is also preempted to the state; provided, however, that any local ordinances establishing a ranking system in existence prior to October 1, 1988, may remain in effect.

History.--s. 24, ch. 92-180; s. 4, ch. 93-53; s. 2, ch. 2002-299; s. 3, ch. 2008-55.

509.049 Food service employee training.—

(1) The division shall adopt, by rule, minimum food safety protection standards for the training of all food service employees who are responsible for the storage, preparation, display, or serving of foods to the public in establishments regulated under this chapter. These standards shall not include an examination, but shall provide for a food safety training certificate program for food service

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employees to be administered by a private nonprofit provider chosen by the division.

(2) The division shall issue a request for competitive sealed proposals which includes a statement of the contractual services sought and all terms and conditions applicable to the contract. The division shall award the contract to the provider whose proposal is determined in writing to be the most advantageous to the state, taking into consideration the price and the other criteria set forth in the request for proposals. The division shall contract with a provider on a 4-year basis and is authorized to promulgate by rule a per employee fee to cover the contracted price for the program administered by the provider. In making its selection, the division shall consider factors including, but not limited to, the experience and history of the provider in representing the food service industry, the provider's demonstrated commitment to food safety, and its ability to provide a statewide program with industry support and participation.

(3) Any food safety training program established and administered to food service employees utilized at a licensed public food service establishment prior to July 1, 2000, shall be submitted by the operator or the third-party provider to the division for its review and approval on or before September 1, 2004. If the food safety training program is found to be in substantial compliance with the division's required criteria and is approved by the division, nothing in this section shall preclude any other operator of a food service establishment from also utilizing the approved program or require the employees of any operator to receive training from or pay a fee to the division's contracted provider. Review and approval by the division of a program or programs under this section shall include, but need not be limited to, verification that the licensed public food service establishment utilized the program prior to July 1, 2000, and the minimum food safety standards adopted by the division in accordance with this section.

(4) Approval of a program is subject to the provider's continued compliance with the division's minimum program standards. The division may conduct random audits of any approved programs to determine compliance and may audit any program if it has reason to believe a program is not in compliance with this section. The division may revoke a program's approval if it finds a program is not in compliance with this section or the rules adopted under this section.

(5) It shall be the duty of each public food service establishment to provide training in accordance with the described rule to all food service employees of the public food service establishment. The public food service establishment may designate any certified food service manager to perform this function. Food service employees must receive certification within 60 days after employment.

Certification pursuant to this section shall remain valid for 3 years. All public food service establishments must provide the division with proof of employee training upon request, including, but not limited to, at the time of any division inspection of the establishment. Proof of training for each food service employee shall include the name of the trained employee, the date of birth of the trained employee, the date the training occurred, and the approved food safety training program used.

(6)(a) Third-party providers shall issue to a public food service establishment an original certificate for each employee certified by the provider and an original card to be provided to each certified employee. Such card or certificate shall be produced by the certified food service employee or by the public food service establishment, respectively, in its duly issued original form upon request of the division.

(b) Effective January 1, 2005, each third-party provider shall provide the following information on each employee upon certification and recertification: the name of the certified food service employee, the employee's date of birth, the employing food service establishment, the name of the certified food manager who conducted the training, the training date, and the certification expiration date. This information shall be reported electronically to the division, in a format prescribed by the division, within 30 days of certification or recertification. The division shall compile the information into an electronic database that is not directly or indirectly owned, maintained, or installed by any nongovernmental provider of food service training. A public food service establishment that trains its employees using its own in-house, proprietary food safety training program approved by the division, and which uses its own employees to provide this training, shall be exempt from the electronic reporting requirements of this paragraph, and from the card or certificate requirement of paragraph (a).

(7) The division may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to administer this section. The rules may require:

(a) The use of application forms, which may require, but need not be limited to, the identification of training components of the program and an applicant affidavit attesting to the accuracy of the information provided in the application;

(b) Third-party providers to maintain and electronically submit information concerning establishments where they provide training or training programs pursuant to this section;

(c) Specific subject matter related to food safety for use in training program components; and

(d) The public food service establishment to be responsible for providing proof of employee training pursuant to this section, and the division may request production of such proof upon inspection of the establishment.

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(8) The following are violations for which the division may impose administrative fines of up to \$1,000 on a public food service establishment, or suspend or revoke the approval of a particular provider's use of a food safety training program:

- (a) Failure of a public food service establishment to provide proof of training pursuant to subsection (5) upon request by the division or an original certificate to the division when required pursuant to paragraph (6)(a).
- (b) Failure of a third-party provider to submit required records pursuant to paragraph (6)(b) or to provide original certificates or cards to a public food service establishment or employee pursuant to paragraph (6)(a).
- (c) Participating in falsifying any training record.
- (d) Failure of the program to maintain the division's minimum program standards.

History.—s. 4, ch. 96-384; s. 1, ch. 2000-191; s. 21, ch. 2001-53; s. 1, ch. 2001-257; s. 8, ch. 2004-292.

509.072 Hotel and Restaurant Trust Fund; collection and disposition of moneys received.--

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

(2) Fees collected under s. 509.302(2) and deposited into the trust fund must be used solely for the purpose of funding the Hospitality Education Program, except for any trust fund service charge imposed by s. 215.20, and may not be used to pay for any expense of the division not directly attributable to the Hospitality Education Program. These funds may not be deposited or transferred into any other trust fund administered by the Department of Business and Professional Regulation or any of its divisions. For audit purposes, fees collected under s. 509.302(2) and all charges against those fees must be maintained by the department as a separate ledger.

History.--s. 3, ch. 75-184; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 4, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 7, 51, 52, ch. 90-339; s. 4, ch. 91-429; s. 5, ch. 96-384; s. 3, ch. 2007-237.

509.091 Notices; form and service.--Each notice served by the division pursuant to this chapter must be in writing and must be delivered personally by an agent of the division or by registered letter to the

operator of the public lodging establishment or public food service establishment. If the operator refuses to accept service or evades service or the agent is otherwise unable to effect service after due diligence, the division may post such notice in a conspicuous place at the establishment.

History.--s. 28, ch. 6952, 1915; RGS 2148; CGL 3377; s. 30, ch. 16042, 1933; CGL 1936 Supp. 3377; s. 1, ch. 71-157; s. 190, ch. 71-377; s. 4, ch. 73-325; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 5, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 8, 51, 52, ch. 90-339; s. 4, ch. 91-429; s. 12, ch. 93-53.
Note.--Former s. 511.29.

509.092 Public lodging establishments and public food service establishments; rights as private enterprises.--

Public lodging establishments and public food service establishments are private enterprises, and the operator has the right to refuse accommodations or service to any person who is objectionable or undesirable to the operator, but such refusal may not be based upon race, creed, color, sex, physical disability, or national origin. A person aggrieved by a violation of this section or a violation of a rule adopted under this section has a right of action pursuant to s. 760.11.

History.--s. 4, ch. 57-389; s. 1, ch. 70-291; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 6, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 9, 51, 52, ch. 90-339; s. 4, ch. 91-429; s. 10, ch. 92-177; s. 4, ch. 92-282.

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

(1) Any operator of a public lodging establishment or a public food service establishment may establish reasonable rules and regulations for the management of the establishment and its guests and employees; and each guest or employee staying, sojourning, eating, or employed in the establishment shall conform to and abide by such rules and regulations so long as the guest or employee remains in or at the establishment. Such rules and regulations shall be deemed to be a special contract between the operator and each guest or employee using the services or facilities of the operator. Such rules and regulations shall control the liabilities, responsibilities, and obligations of all parties. Any rules or regulations established pursuant to this section shall be printed in the English language and posted in a prominent place within such public lodging establishment or public food service establishment. In addition, any operator of a public food service establishment shall maintain the latest food service inspection report or a duplicate copy on premises and shall make it available to the public upon request.

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(2) It is the duty of each operator of a transient establishment to maintain at all times a register, signed by or for guests who occupy rental units within the establishment, showing the dates upon which the rental units were occupied by such guests and the rates charged for their occupancy. This register shall be maintained in chronological order and available for inspection by the division at any time. Operators need not make available registers which are more than 2 years old.

(3) It is the duty of each operator of a public food service establishment that provides commissary services to maintain a daily registry verifying that each mobile food dispensing vehicle that receives such services is properly licensed by the division. In order that such licensure may be readily verified, each mobile food dispensing vehicle operator shall permanently affix in a prominent place on the side of the vehicle, in figures at least 2 inches high and in contrasting colors from the background, the operator's public food service establishment license number. Prior to providing commissary services, each public food service establishment must verify that the license number displayed on the vehicle matches the number on the vehicle operator's public food service establishment license.

History.--s. 2, ch. 1999, 1874; RS 871; GS 1229; RGS 2353; CGL 3757; s. 38, ch. 16042, 1933; s. 5, ch. 57-389; ss. 16, 35, ch. 69-106; s. 5, ch. 73-325; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 7, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 10, 51, 52, ch. 90-339; s. 4, ch. 91-40; s. 4, ch. 91-429; s. 5, ch. 93-53; s. 6, ch. 96-384; s. 4, ch. 2008-55.
Note.--Former s. 510.02.

509.111 Liability for property of guests.--

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

(2) The operator of a public lodging establishment is not liable or responsible to any guest for the loss of wearing apparel, goods, or other property, except as provided in subsection (1), unless such loss occurred as the proximate result of fault or negligence of such operator, and, in case of fault or negligence, the operator is not liable for a greater sum than \$500, unless the guest, prior to the loss or damage, files

with the operator an inventory of the guest's effects and the value thereof and the operator is given the opportunity to inspect such effects and check them against such inventory. The operator of a public lodging establishment is not liable or responsible to any guest for the loss of effects listed in such inventory in a total amount exceeding \$1,000.

History.--s. 4, ch. 1999, 1874; RS 873; GS 1231; RGS 2355; s. 11, ch. 9264, 1923; s. 1, ch. 12052, 1927; CGL 3759; s. 40, ch. 16042, 1933; CGL 1936 Supp. 3759; s. 1, ch. 23931, 1947; s. 2, ch. 28129, 1953; s. 6, ch. 73-325; s. 1, ch. 73-364; s. 3, ch. 76-168; s. 1, ch. 77-174; s. 1, ch. 77-457; ss. 8, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 11, 51, 52, ch. 90-339; s. 4, ch. 91-429; s. 671, ch. 97-103.
Note.--Former s. 510.04.

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

(1) The operator of any public lodging establishment or public food service establishment may remove or cause to be removed from such establishment, in the manner hereinafter provided, any guest of the establishment who, while on the premises of the establishment, illegally possesses or deals in controlled substances as defined in chapter 893 or is intoxicated, profane, lewd, or brawling; who indulges in any language or conduct which disturbs the peace and comfort of other guests or which injures the reputation, dignity, or standing of the establishment; who, in the case of a public lodging establishment, fails to make payment of rent at the agreed-upon rental rate by the agreed-upon checkout time; who, in the case of a public lodging establishment, fails to check out by the time agreed upon in writing by the guest and public lodging establishment at check-in unless an extension of time is agreed to by the public lodging establishment and guest prior to checkout; who, in the case of a public food service establishment, fails to make payment for food, beverages, or services; or who, in the opinion of the operator, is a person the continued entertainment of whom would be detrimental to such establishment.

The admission to, or the removal from, such establishment shall not be based upon race, creed, color, sex, physical disability, or national origin.

(2) The operator of any public lodging establishment or public food service establishment shall notify such guest that the establishment no longer desires to entertain the guest and shall request that such guest immediately depart from the establishment. Such notice may be given orally or in writing. If the notice is in writing, it shall be as follows:

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

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

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

(4) If any person is illegally on the premises of any public lodging establishment or public food service establishment, the operator of such establishment may call upon any law enforcement officer of this state for assistance. It is the duty of such law enforcement officer, upon the request of such operator, to place under arrest and take into custody for violation of this section any guest who violates subsection (3) in the presence of the officer. If a warrant has been issued by the proper judicial officer for the arrest of any violator of subsection (3), the officer shall serve the warrant, arrest the person, and take the person into custody. Upon arrest, with or without warrant, the guest will be deemed to have given up any right to occupancy or to have abandoned such right of occupancy of the premises, and the operator of the establishment may then make such premises available to other guests. However, the operator of the establishment shall employ all reasonable and proper means to care for any personal property which may be left on the premises by such guest and shall refund any unused portion of moneys paid by such guest for the occupancy of such premises.

History.--ss. 1-3, ch. 22023, 1943; s. 1, ch. 63-96; s. 2, ch. 70-291; s. 473, ch. 71-136; s. 5, ch. 72-48; s. 8, ch. 73-325; s. 8, ch. 73-330; s. 26, ch. 73-334; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 9, 39, 42, ch. 79-240; ss. 2, 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; s. 1, ch. 89-82; ss. 12, 51, 52, ch. 90-339; s. 4, ch. 91-429.

Note.--Former s. 510.08.

509.142 Conduct on premises; refusal of service.-

-The operator of a public lodging establishment or public food service establishment may refuse accommodations or service to any person whose conduct on the premises of the establishment displays intoxication, profanity, lewdness, or brawling; who indulges in language or conduct such as to disturb the peace or comfort of other guests; who engages in illegal or disorderly conduct; who illegally possesses or deals in controlled substances as defined in chapter 893; or whose conduct constitutes a nuisance. Such refusal may not be based upon race, creed, color, sex, physical disability, or national origin.

History.--s. 1, ch. 65-131; s. 3, ch. 70-291; s. 6, ch. 72-48; s. 9, ch. 73-325; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 10, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 13, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.143 Disorderly conduct on the premises of an establishment; detention; arrest; immunity from liability.--

(1) An operator may take a person into custody and detain that person in a reasonable manner and for a reasonable time if the operator has probable cause to believe that the person was engaging in disorderly conduct in violation of s. 877.03 on the premises of the licensed establishment and that such conduct was creating a threat to the life or safety of the person or others. The operator shall call a law enforcement officer to the scene immediately after detaining a person under this subsection.

(2) A law enforcement officer may arrest, either on or off the premises of the licensed establishment and without a warrant, any person the officer has probable cause to believe violated s. 877.03 on the premises of a licensed establishment and, in the course of such violation, created a threat to the life or safety of the person or others.

(3) An operator or a law enforcement officer who detains a person under subsection (1) or makes an arrest under subsection (2) is not civilly or criminally liable for false arrest, false imprisonment, or unlawful detention on the basis of any action taken in compliance with subsection (1) or subsection (2).

(4) A person who resists the reasonable efforts of an operator or a law enforcement officer to detain or arrest that person in accordance with this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, unless the person did not know or did not have reason to know that the person seeking to make such detention or arrest was the operator of the establishment or a law enforcement officer.

History.--s. 1, ch. 86-174; ss. 14, 52, ch. 90-339; s. 4, ch. 91-429.

509.144 Prohibited handbill distribution in a public lodging establishment; penalties.--

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

(a) "Handbill" means a flier, leaflet, pamphlet, or other written material that advertises, promotes, or informs persons about an individual, business, company, or food service establishment, but shall not include employee communications permissible under the National Labor Relations Act.

(b) "Without permission" means without the expressed written or oral permission of the owner, manager, or agent of the owner or manager of the public lodging establishment where a sign is posted prohibiting advertising or solicitation in the manner provided in subsection (4).

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

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

(3) Any person who, without permission, directs another person to deliver, distribute, or place, or attempts to deliver, distribute, or place, a handbill at or in a public lodging establishment commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person sentenced under this subsection shall be ordered to pay a minimum fine of \$500 in addition to any other penalty imposed by the court.

(4) For purposes of this section, a public lodging establishment that intends to prohibit advertising or solicitation, as described in this section, at or in such establishment must comply with the following requirements when posting a sign prohibiting such solicitation or advertising:

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

(b) The sign must be posted conspicuously.

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

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

History.--s. 2, ch. 2005-183.

509.151 Obtaining food or lodging with intent to defraud; penalty.--

(1) Any person who obtains food, lodging, or other accommodations having a value of less than \$300 at any public food service establishment, or at any transient establishment, with intent to defraud the operator thereof, is guilty of a misdemeanor of the

second degree, punishable as provided in s. 775.082 or s. 775.083; if such food, lodging, or other accommodations have a value of \$300 or more, such person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) This section does not apply where there has been an agreement in writing for delay in payments. This section shall not be used to circumvent the procedural requirements of the Florida Residential Landlord and Tenant Act.

History.--ss. 1-3, ch. 6954, 1915; RGS 5157; CGL 7260; s. 45, ch. 16042, 1933; CGL 1936 Supp. 7260; s. 1, ch. 63-546; s. 474, ch. 71-136; s. 10, ch. 73-325; s. 1, ch. 74-314; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 11, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 15, 51, 52, ch. 90-339; s. 4, ch. 91-429; s. 6, ch. 93-53.

Note.--Former s. 511.38.

509.161 Rules of evidence in prosecutions.--In prosecutions under s. 509.151, proof that lodging, food, or other accommodations were obtained by false pretense; by false or fictitious show of baggage or other property; by absconding without paying or offering to pay for such food, lodging, or accommodations; or by surreptitiously removing or attempting to remove baggage shall constitute prima facie evidence of fraudulent intent. If the operator of the establishment has probable cause to believe, and does believe, that any person has obtained food, lodging, or other accommodations at such establishment with intent to defraud the operator thereof, the failure to make payment upon demand therefor, there being no dispute as to the amount owed, shall constitute prima facie evidence of fraudulent intent in such prosecutions.

History.--s. 2, ch. 6954, 1915; RGS 5158; CGL 7261; s. 46, ch. 16042, 1933; CGL 1936 Supp. 7261; s. 2, ch. 63-546; s. 11, ch. 73-325; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 12, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 51, 52, ch. 90-339; s. 4, ch. 91-429.

Note.--Former s. 511.39.

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

(1) Any law enforcement officer or operator of a public lodging establishment or public food service establishment who has probable cause to believe that theft of personal property belonging to such establishment has been committed by a person and that the officer or operator can recover such property or the reasonable value thereof by taking the person into custody may, for the purpose of attempting to effect such recovery or for prosecution, take such person into custody on the premises and detain such person in a reasonable manner and for a reasonable period of time. If the operator takes the person into custody, a law enforcement officer shall be called to

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the scene immediately. The taking into custody and detention by a law enforcement officer or operator of a public lodging establishment or public food service establishment, if done in compliance with this subsection, does not render such law enforcement officer or operator criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

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

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

(4) Theft of any property belonging to a guest of an establishment licensed under this chapter, or of property belonging to such establishment, by an employee of the establishment or by an employee of a person, firm, or entity which has contracted to provide services to the establishment constitutes a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 3, ch. 63-546; s. 12, ch. 73-325; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 13, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 16, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.191 Unclaimed property.--Any property with an identifiable owner which is left in a public lodging establishment or public food service establishment, other than property belonging to a guest who has vacated the premises without notice to the operator and with an outstanding account, which property remains unclaimed after being held by the establishment for 30 days after written notice to the guest or owner of the property, shall become the property of the establishment. Property without an identifiable owner which is found in a public lodging establishment or public food service establishment is subject to the provisions of chapter 705.

History.--ss. 1, 2, ch. 6196, 1911; RGS 2357, 2358; CGL 3761, 3762; ss. 42, 43, ch. 16042, 1933; s. 125, ch. 26869, 1951; s. 15, ch. 73-325; s. 3, ch. 76-168; s. 188, ch. 77-104; s. 1, ch. 77-457; ss. 14, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 17, 51, 52, ch. 90-339; s. 4, ch. 91-429; s. 2, ch. 98-275.

Note.--Former ss. 510.06, 510.07.

509.2015 Telephone surcharges by public lodging establishments.--

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

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

History.--s. 1, ch. 89-349; ss. 19, 52, ch. 90-339; s. 4, ch. 91-429.

509.211 Safety regulations.--

(1) Each bedroom or apartment in each public lodging establishment shall be equipped with an approved locking device on each door opening to the outside, to an adjoining room or apartment, or to a hallway.

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

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

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

(4) Every enclosed space or room that contains a boiler regulated under chapter 554 which is fired by the direct application of energy from the combustion of fuels and that is located in any portion of a public lodging establishment that also contains sleeping rooms shall be equipped with one or more carbon monoxide sensor devices that bear the label of a nationally recognized testing laboratory and have been tested and listed as complying with the most recent Underwriters Laboratories, Inc., Standard 2034, or its equivalent, unless it is determined that carbon monoxide hazards have otherwise been adequately mitigated as determined by the division. Such devices shall be integrated with the public

lodging establishment's fire detection system. Any such installation or determination shall be made in accordance with rules adopted by the division.

History.--s. 5, ch. 1999, 1874; RS 874; GS 1232; ss. 17-23, ch. 6952, 1915; RGS 2137-2143, 2356; s. 7, ch. 9264, 1923; CGL 3366-3372, 3760; ss. 19-25, 41, ch. 16042, 1933; CGL 1936 Supp. 3366-3372; ss. 3-5, ch. 23930, 1947; s. 10, ch. 26484, 1951; s. 3, ch. 28129, 1953; s. 4, ch. 29821, 1955; s. 7, ch. 57-389; s. 1, ch. 63-67; s. 1, ch. 63-312; s. 1, ch. 63-426; s. 7, ch. 65-421; s. 1, ch. 65-150; ss. 1, 2, ch. 67-232; ss. 16, 35, ch. 69-106; ss. 1, 2, ch. 70-281; s. 478, ch. 71-136; ss. 2, 4, 13, ch. 71-157; s. 191, ch. 71-377; s. 17, ch. 73-325; s. 3, ch. 76-168; s. 6, ch. 76-252; s. 1, ch. 77-457; s. 9, ch. 78-95; ss. 16, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; s. 12, ch. 83-145; s. 6, ch. 86-174; s. 2, ch. 90-242; ss. 20, 51, 52, ch. 90-339; s. 6, ch. 91-40; s. 4, ch. 91-429; s. 1, ch. 2007-181; s. 5, ch. 2008-55.

509.2112 Public lodging establishments three stories or more in height; inspection rules.--The Division of Hotels and Restaurants of the Department of Business and Professional Regulation is directed to provide rules to require that:

- (1) Every public lodging establishment that is three stories or more in height in the state file a certificate stating that any and all balconies, platforms, stairways, and railways have been inspected by a person competent to conduct such inspections and are safe, secure, and free of defects.
- (2) The information required under subsection (1) be filed commencing January 1, 1991, and every 3 years thereafter, with the Division of Hotels and Restaurants and the applicable county or municipal authority responsible for building and zoning permits.
- (3) If a public lodging establishment that is three or more stories in height fails to file the information required in subsection (1), the Division of Hotels and Restaurants shall impose administrative sanctions pursuant to s. 509.261.

History.--s. 1, ch. 90-242; s. 7, ch. 91-40; s. 15, ch. 91-201; s. 4, ch. 91-429; s. 203, ch. 94-218.

509.213 Emergency first aid to choking victims.--

- (1) Every public food service establishment shall post a sign which illustrates and describes the Heimlich Maneuver procedure for rendering emergency first aid to a choking victim in a conspicuous place in the establishment accessible to employees.
- (2) The establishment shall be responsible for familiarizing its employees with the method of rendering such first aid.
- (3) This section shall not be construed to impose upon a public food service establishment or employee thereof a legal duty to render such emergency assistance, and any such establishment or employee shall not be held liable for any civil damages as the result of such act or omission when the establishment or employee acts as an ordinary

reasonably prudent person would have acted under the same or similar circumstances.

History.--ss. 1, 5, ch. 83-241; ss. 51, 52, ch. 90-339; s. 4, ch. 91-429; s. 672, ch. 97-103.

509.214 Notification of automatic gratuity charge.-

Every public food service establishment which includes an automatic gratuity or service charge in the price of the meal shall include on the food menu and on the face of the bill provided to the customer notice that an automatic gratuity is included.

History.--s. 1, ch. 86-24; s. 1, ch. 88-16; ss. 21, 52, ch. 90-339; s. 4, ch. 91-429.

509.215 Firesafety.--

- (1) Any:
 - (a) Public lodging establishment, as defined in this chapter, which is of three stories or more and for which the construction contract has been let after September 30, 1983, with interior corridors which do not have direct access from the guest area to exterior means of egress, or
 - (b) Building over 75 feet in height that has direct access from the guest area to exterior means of egress and for which the construction contract has been let after September 30, 1983, shall be equipped with an automatic sprinkler system installed in compliance with the provisions prescribed in the National Fire Protection Association publication NFPA No. 13 "Standards for the Installation of Sprinkler Systems." The sprinkler installation may be omitted in closets which are not over 24 square feet in area and in bathrooms which are not over 55 square feet in area, which closets and bathrooms are located in guest rooms. Each guest room shall be equipped with an approved listed single-station smoke detector meeting the minimum requirements of NFPA-74 "Standards for the Installation, Maintenance and Use of Household Fire Warning Equipment," powered from the building electrical service, notwithstanding the number of stories in the structure or type or means of egress, if the contract for construction is let after September 30, 1983. Single-station smoke detection is not required when guest rooms contain smoke detectors connected to a central alarm system which also alarms locally.
- (2) Any public lodging establishment, as defined in this chapter, which is of three stories or more and for which the construction contract was let before October 1, 1983, shall be equipped with:
 - (a) A system which complies with subsection (1); or
 - (b) An approved sprinkler system for all interior corridors, public areas, storage rooms, closets, kitchen areas, and laundry rooms, less individual guest rooms, if the following conditions are met:

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1. There is a minimum 1-hour separation between each guest room and between each guest room and a corridor.
2. The building is constructed of noncombustible materials.
3. The egress conditions meet the requirements of s. 5-3 of the Life Safety Code, NFPA 101.
4. The building has a complete automatic fire detection system which meets the requirements of NFPA-72A and NFPA-72E, including smoke detectors in each guest room individually annunciating to a panel at a supervised location.
 - (3) Notwithstanding any other provision of law to the contrary, this section applies only to those public lodging establishments in a building wherein more than 50 percent of the units in the building are advertised or held out to the public as available for transient occupancy.
 - (4)(a) Special exception to the provisions of this section shall be made for a public lodging establishment structure that is individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended; or is a contributing property to a National Register-listed district; or is designated as a historic property, or as a contributing property to a historic district under the terms of a local preservation ordinance.
 - (b) For such structures, provisions shall be made for a system of fire protection and lifesafety support that would meet the intent of the NFPA standards and be acceptable to, and approved by, a task force composed of the director of the Division of Hotels and Restaurants, the director of the Division of State Fire Marshal, and the State Historic Preservation Officer. When recommending alternative systems, the task force shall consider systems which would not disturb, destroy, or alter the integrity of such historic structures. The director of the Division of State Fire Marshal shall be designated chairperson of the task force and shall record the minutes of each task force meeting, which shall be called in a timely manner to review requests for special provision considerations under this subsection.
 - (5) The Division of State Fire Marshal shall adopt, in accordance with the provisions of chapter 120, any rules necessary for the implementation and enforcement of this section. The Division of State Fire Marshal shall enforce this section in accordance with the provisions of chapter 633, and any establishment licensed under this chapter in violation of this section may be subject to administrative sanctions by the division pursuant to s. 509.261.
 - (6) Specialized smoke detectors for the deaf and hearing impaired shall be available upon request by guests in public lodging establishments at a rate of at least one such smoke detector per 50 dwelling units or portions thereof, not to exceed five such smoke detectors per public lodging facility.

(7) The National Fire Protection Association publications referenced in this section are the ones most recently adopted by rule of the Division of State Fire Marshal of the Department of Financial Services.

History.—ss. 1, 3, 4, ch. 83-194; s. 91, ch. 85-81; s. 7, ch. 86-174; s. 32, ch. 88-90; s. 1, ch. 88-209; ss. 22, 51, 52, ch. 90-339; s. 8, ch. 91-40; s. 4, ch. 91-429; s. 11, ch. 96-384; s. 59, ch. 99-5; s. 7, ch. 2000-208; s. 567, ch. 2003-261.

509.221 Sanitary regulations.--

- (1)(a) Each public lodging establishment shall be supplied with potable water and shall provide adequate sanitary facilities for the accommodation of its employees and guests. Such facilities may include, but are not limited to, showers, handwash basins, toilets, and bidets. Such sanitary facilities shall be connected to approved plumbing. Such plumbing shall be sized, installed, and maintained in accordance with the Florida Building Code as approved by the local building authority. Wastewater or sewage shall be properly treated onsite or discharged into an approved sewage collection and treatment system.
- (b) Each public food service establishment shall be supplied with potable water and shall provide adequate sanitary facilities for the accommodation of its employees. Such facilities may include, but are not limited to, showers, handwash basins, toilets, and bidets. Such sanitary facilities shall be connected to approved plumbing. Such plumbing shall be sized, installed, and maintained in accordance with the Florida Building Code as approved by the local building authority. Wastewater or sewage shall be properly treated onsite or discharged into an approved sewage collection and treatment system.
- (2)(a) Each public lodging establishment and each public food service establishment shall maintain public bathroom facilities in accordance with the Florida Building Code as approved by the local building authority. The division shall establish by rule categories of establishments not subject to the bathroom requirement of this paragraph. Such rules may not alter the exemption provided for theme parks in paragraph (b).
- (b) Within a theme park or entertainment complex as defined in s. 509.013(9), the bathrooms are not required to be in the same building as the public food service establishment, so long as they are reasonably accessible.
- (c) Each transient establishment that does not provide private or connecting bathrooms shall maintain one public bathroom on each floor for every 15 guests, or major fraction of that number, rooming on that floor.
- (3) Each establishment licensed under this chapter shall be properly lighted, heated, cooled, and ventilated and shall be operated with strict regard to the health, comfort, and safety of the guests. Such

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proper lighting shall be construed to apply to both daylight and artificial illumination.

(4) Each bedroom in a public lodging establishment shall have an opening to the outside of the building, air shafts, or courts sufficient to provide adequate ventilation. Where ventilation is provided mechanically, the system shall be capable of providing at least two air changes per hour in all areas served. Where ventilation is provided by windows, each room shall have at least one window opening directly to the outside.

(5) Each transient public lodging establishment shall provide in the main public bathroom soap and clean towels or other approved hand-drying devices and each public lodging establishment shall furnish each guest with two clean individual towels so that two guests will not be required to use the same towel unless it has first been laundered. Each public food service establishment shall provide in the employee bathroom and any public bathroom soap and clean towels or other approved hand-drying devices.

(6) Each transient establishment shall provide each bed, bunk, cot, or other sleeping place for the use of guests with clean pillowslips and under and top sheets. Sheets and pillowslips shall be laundered before they are used by another guest, a clean set being furnished each succeeding guest. All bedding, including mattresses, quilts, blankets, pillows, sheets, and comforters, shall be thoroughly aired, disinfected, and kept clean. Bedding, including mattresses, quilts, blankets, pillows, sheets, or comforters, may not be used if they are worn out or unfit for further use.

(7) The operator of any establishment licensed under this chapter shall take effective measures to protect the establishment against the entrance and the breeding on the premises of all vermin. Any room in such establishment infested with such vermin shall be fumigated, disinfected, renovated, or other corrective action taken until the vermin are exterminated.

(8) A person, while suffering from any contagious or communicable disease, while a carrier of such disease, or while afflicted with boils or infected wounds or sores, may not be employed by any establishment licensed under this chapter, in any capacity whereby there is a likelihood such disease could be transmitted to other individuals. An operator that has reason to believe that an employee may present a public health risk shall immediately notify the proper health authority.

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

History.--ss. 12-16, 24-26, 32, ch. 6952, ss. 1-5, ch. 6953, 1915; RGS 2132-2136, 2144-2146, 2152-2156, 5642; ss. 5, 6, 10, ch. 9264, 1923; ss. 3, 4, ch. 12053, 1927; CGL 3361-3365, 3373-3375, 3381-3385, 7836; ss. 14-18, 26-28, 34-37, ch. 16042, 1933; CGL 1936 Supp. 3361-3365, 3373-3375, 3381, 3382, 3384, 3385; s. 8, ch. 57-389; s. 1, ch. 59-152; ss. 16, 35, ch. 69-106; s. 3, ch.

71-157; s. 18, ch. 73-325; s. 3, ch. 76-168; s. 1, ch. 77-174; s. 1, ch. 77-457; ss. 17, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; s. 388, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 3, 4, ch. 82-84; ss. 3, 4, ch. 83-241; ss. 23, 51, 52, ch. 90-339; s. 9, ch. 91-40; s. 4, ch. 91-429; s. 8, ch. 93-53; s. 7, ch. 96-384; s. 48, ch. 2000-141; s. 34, ch. 2001-186; s. 3, ch. 2001-372; s. 6, ch. 2008-55.
Note.--Former ss. 511.13-511.17, 511.25-511.27, 511.35-511.37, 511.42.

509.232 School carnivals and fairs; exemption from certain food service regulations.--Any public or nonprofit school which operates a carnival, fair, or other celebration, by whatever name known, which is in operation for 3 days or less and which includes the sale and preparation of food and beverages must notify the local county health department of the proposed event and is exempt from any temporary food service regulations with respect to the requirements for having hot and cold running water; floors which are constructed of tight wood, asphalt, concrete, or other cleanable material; enclosed walls and ceilings with screening; and certain size counter service. A school may not use this notification process to circumvent the license requirements of this chapter.

History.--s. 1, ch. 81-147; ss. 24, 52, ch. 90-339; s. 4, ch. 91-429; s. 145, ch. 97-101.

509.233 Public food service establishment requirements; local exemption for dogs in designated outdoor portions.--

(1) LOCAL EXEMPTION AUTHORIZED.-- Notwithstanding s. 509.032(7), the governing body of a local government may establish, by ordinance, a local exemption procedure to certain provisions of the Food and Drug Administration Food Code, as currently adopted by the division, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments.

(2) LOCAL DISCRETION; CODIFICATION.-- (a) The adoption of the local exemption procedure shall be at the sole discretion of the governing body of a participating local government. Nothing in this section shall be construed to require or compel a local governing body to adopt an ordinance pursuant to this section.

(b) Any ordinance adopted pursuant to this section shall provide for codification within the land development code of a participating local government.

(3) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.--

(a) Any local exemption procedure adopted pursuant to this section shall only provide a variance to those portions of the currently adopted Food and Drug Administration Food Code in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments.

(b) In order to protect the health, safety, and general welfare of the public, the local exemption procedure shall require participating public food service establishments to apply for and receive a permit from the governing body of the local government before allowing patrons' dogs on their premises. The local government shall require from the applicant such information as the local government deems reasonably necessary to enforce the provisions of this section, but shall require, at a minimum, the following information:

1. The name, location, and mailing address of the public food service establishment.
2. The name, mailing address, and telephone contact information of the permit applicant.
3. A diagram and description of the outdoor area to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information reasonably required by the permitting authority. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional.
4. A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.

(c) In order to protect the health, safety, and general welfare of the public, the local exemption ordinance shall include such regulations and limitations as deemed necessary by the participating local government and shall include, but not be limited to, the following requirements:

1. All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling dogs. Employees shall be prohibited from touching, petting, or otherwise handling dogs while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.
2. Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.
3. Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.
4. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.
5. Dogs shall not be allowed on chairs, tables, or other furnishings.

6. All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.

7. Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.

8. A sign or signs reminding employees of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.

9. A sign or signs reminding patrons of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.

10. A sign or signs shall be posted in a manner and place as determined by the local permitting authority that places the public on notice that the designated outdoor area is available for the use of patrons and patrons' dogs.

11. Dogs shall not be permitted to travel through indoor or nondesignated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment must not require entrance into or passage through any indoor area of the food establishment.

(d) A permit issued pursuant to this section shall not be transferred to a subsequent owner upon the sale of a public food service establishment but shall expire automatically upon the sale of the establishment. The subsequent owner shall be required to reapply for a permit pursuant to this section if the subsequent owner wishes to continue to accommodate patrons' dogs.

(4) **POWERS; ENFORCEMENT.**--Participating local governments shall have such powers as are reasonably necessary to regulate and enforce the provisions of this section.

(5) **STATE AND LOCAL COOPERATION.**--The division shall provide reasonable assistance to participating local governments in the development of enforcement procedures and regulations, and participating local governments shall monitor permitholders for compliance in cooperation with the division. At a minimum, participating local governments shall establish a procedure to accept, document, and respond to complaints and to timely report to the division all such complaints and the participating local governments' enforcement responses to such complaints. A participating local government shall provide the division with a copy of all approved applications and permits issued, and the participating local government shall require that all applications, permits, and other related materials contain the appropriate division-issued license number for each public food service establishment.

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History.--s. 3, ch. 2006-72; s. 127, ch. 2007-5; s. 46, ch. 2009-195.

509.241 Licenses required; exceptions.--

(1) **LICENSES; ANNUAL RENEWALS.**--Each public lodging establishment and public food service establishment shall obtain a license from the division. Such license may not be transferred from one place or individual to another. It shall be a misdemeanor of the second degree, punishable as provided in s.

775.082 or s. 775.083, for such an establishment to operate without a license. Local law enforcement shall provide immediate assistance in pursuing an illegally operating establishment. The division may refuse a license, or a renewal thereof, to any establishment that is not constructed and maintained in accordance with law and with the rules of the division. The division may refuse to issue a license, or a renewal thereof, to any establishment an operator of which, within the preceding 5 years, has been adjudicated guilty of, or has forfeited a bond when charged with, any crime reflecting on professional character, including soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or illegally dealing in controlled substances as defined in chapter 893, whether in this state or in any other jurisdiction within the United States, or has had a license denied, revoked, or suspended pursuant to s. 429.14. Licenses shall be renewed annually, and the division shall adopt a rule establishing a staggered schedule for license renewals. If any license expires while administrative charges are pending against the license, the proceedings against the license shall continue to conclusion as if the license were still in effect.

(2) **APPLICATION FOR LICENSE.**--Each person who plans to open a public lodging establishment or a public food service establishment shall apply for and receive a license from the division prior to the commencement of operation. A condominium association, as defined in s. 718.103, which does not own any units classified as resort condominiums under s. 509.242(1)(c) shall not be required to apply for or receive a public lodging establishment license.

(3) **DISPLAY OF LICENSE.**--Any license issued by the division shall be conspicuously displayed in the office or lobby of the licensed establishment. Public food service establishments which offer catering services shall display their license number on all advertising for catering services.

History.--ss. 3-5, 8, ch. 6952, 1915; RGS 2124-2126, 2129; ss. 3, 4, ch. 9264, 1923; s. 6, ch. 12053, 1927; CGL 3353-3355, 3358; s. 1, ch. 13659, 1929; ss. 6-8, 13, ch. 16042, 1933; CGL 1936 Supp. 3353, 3354; s. 1, ch. 23930, 1947; ss. 5, 6, ch. 29821, 1955; s. 1, ch. 29820, 1955; s. 9, ch. 57-389; s. 1, ch. 57-824; s. 1, ch. 61-81; s. 1, ch. 67-507; ss. 16, 35, ch. 69-106; s. 4, ch. 70-281; s. 480, ch. 71-136; s. 6, ch. 71-157; s. 19, ch. 73-325; s. 20, ch. 75-233; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 17, ch. 78-336; s. 1, ch. 78-343; ss.

18, 20, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; s. 389, ch. 81-259; ss. 2, 3, ch. 81-318; s. 4, ch. 86-174; s. 23, ch. 89-294; ss. 25, 51, 52, ch. 90-339; s. 10, ch. 91-40; s. 4, ch. 91-429; s. 97, ch. 2006-197.

Note.--Former ss. 511.01-511.03, 511.10.

509.242 Public lodging establishments; classifications.--

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

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

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

(c) *Resort condominium.*--A resort condominium is 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.

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

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

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

(g) *Resort dwelling.*--A resort dwelling is 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

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regularly rented for periods of less than 30 days or 1 calendar month, whichever is less.

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

(2) If 25 percent or more of the units in any public lodging establishment fall within a classification different from the classification under which the establishment is licensed, such establishment shall obtain a separate license for the classification representing the 25 percent or more units which differ from the classification under which the establishment is licensed.

(3) A public lodging establishment may advertise or display signs which advertise a specific classification, if it has received a license which is applicable to the specific classification and it fulfills the requirements of that classification.

History.--s. 2, ch. 57-824; s. 2, ch. 61-81; ss. 16, 35, ch. 69-106; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 19, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 26, 51, 52, ch. 90-339; s. 11, ch. 91-40; s. 4, ch. 91-429; s. 9, ch. 93-53; s. 12, ch. 96-384; s. 7, ch. 2008-55.

509.251 License fees.--

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

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

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

(2) The division shall adopt, by rule, a schedule of fees to be paid by each public food service establishment as a prerequisite to issuance or renewal of a license. The fee schedule shall prescribe a basic fee and additional fees based on seating capacity and services offered. The aggregate fee per establishment charged any public food service establishment may not exceed \$400; however, the fees described in paragraphs (a) and (b) may not be included as part of the aggregate fee subject to this cap. The fee schedule shall require an establishment which applies for an initial license to pay the full license fee if application is made during the annual renewal period or more than 6 months prior to the next such renewal period and one-half of the fee if application is made 6 months or less prior to such period. The fee schedule shall include fees collected for the purpose of funding the Hospitality Education Program, pursuant to s. 509.302, which are payable in full for each application regardless of when the application is submitted.

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

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

(3) The fact that a public food service establishment is operated in conjunction with a public lodging establishment does not relieve the public food service establishment of the requirement that it be separately licensed as a public food service establishment.

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(4) The actual costs associated with each epidemiological investigation conducted by the Department of Health in public food service establishments licensed pursuant to this chapter shall be accounted for and submitted to the division annually. The division shall journal transfer the total of all such amounts from the Hotel and Restaurant Trust Fund to the Department of Health annually; however, the total amount of such transfer may not exceed an amount equal to 5 percent of the annual public food service establishment licensure fees received by the division.

History.--ss. 6, 7, ch. 6952, 1915; RGS 2127, 2128; ss. 1, 2, ch. 12053, 1927; CGL 3356, 3357; ss. 9-12, ch. 16042, 1933; ss. 2, 3, ch. 17062, 1935; CGL 1936 Supp. 3356(1), 3357(1); ss. 1, 2, ch. 28276, 1953; ss. 2-5, ch. 29820, 1955; s. 1, ch. 57-272; s. 1, ch. 61-353; s. 1, ch. 63-350; ss. 1, 2, ch. 67-221; ss. 16, 35, ch. 69-106; ss. 1, 2, ch. 72-228; s. 4, ch. 75-184; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 20, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 27, 51, 52, ch. 90-339; s. 12, ch. 91-40; s. 4, ch. 91-429; s. 10, ch. 93-53; s. 8, ch. 96-384; s. 247, ch. 99-8; s. 3, ch. 2002-299.
Note.--Former ss. 511.06-511.09.

509.261 Revocation or suspension of licenses; fines; procedure.--

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

- (a) Fines not to exceed \$1,000 per offense;
- (b) Mandatory attendance, at personal expense, at an educational program sponsored by the Hospitality Education Program; and
- (c) The suspension, revocation, or refusal of a license issued pursuant to this chapter.

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

(3) The division shall post a prominent closed-for-operation sign on any public lodging establishment or public food service establishment, the license of which has been suspended or revoked. The division shall also post such sign on any establishment judicially or administratively determined to be operating without a license. It is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for any person to deface or remove such closed-for-operation sign or for any public lodging establishment or public food service establishment to open for operation without a license or to open for operation while its license is suspended or revoked. The division may impose administrative sanctions for violations of this section.

(4) All funds received by the division as satisfaction for administrative fines shall be paid into the State

Treasury to the credit of the Hotel and Restaurant Trust Fund and may not subsequently be used for payment to any entity performing required inspections under contract with the division. Administrative fines may be used to support division programs pursuant to s. 509.302(1).

(5)(a) A license may not be suspended under this section for a period of more than 12 months. At the end of such period of suspension, the establishment may apply for reinstatement or renewal of the license. A public lodging establishment or public food service establishment, the license of which is revoked, may not apply for another license for that location prior to the date on which the revoked license would have expired.

(b) The division may fine, suspend, or revoke the license of any public lodging establishment or public food service establishment if the operator knowingly lets, leases, or gives space for unlawful gambling purposes or permits unlawful gambling in such establishment or in or upon any premises which are used in connection with, and are under the same charge, control, or management as, such establishment.

(6) The division may fine, suspend, or revoke the license of any public lodging establishment or public food service establishment when:

(a) Any person with a direct financial interest in the licensed establishment, within the preceding 5 years in this state, any other state, or the United States, has been adjudicated guilty of or forfeited a bond when charged with soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegally dealing in controlled substances as defined in chapter 893, or any other crime reflecting on professional character.

(b) Such establishment has been deemed an imminent danger to the public health and safety by the division or local health authority for failure to meet sanitation standards or the premises have been determined by the division or local authority to be unsafe or unfit for human occupancy.

(7) A person is not entitled to the issuance of a license for any public lodging establishment or public food service establishment except in the discretion of the director when the division has notified the current licenseholder for such premises that administrative proceedings have been or will be brought against such current licensee for violation of any provision of this chapter or rule of the division.

(8) The division may fine, suspend, or revoke the license of any public lodging establishment or public food service establishment when the establishment is not in compliance with the requirements of a final order or other administrative action issued against the licensee by the division.

(9) The division may refuse to issue or renew the license of any public lodging establishment or public food service establishment until all outstanding fines

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are paid in full to the division as required by all final orders or other administrative action issued against the licensee by the division.

History.--s. 48, ch. 16042, 1933; CGL 1936 Supp. 3355(2); s. 1, ch. 21660, 1943; s. 2, ch. 23930, 1947; ss. 1-5, ch. 26939, 1951; s. 1, ch. 28224, 1953; s. 1, ch. 29823, 1955; s. 10, ch. 57-389; s. 40, ch. 63-512; s. 1, ch. 63-69; s. 1, ch. 63-68; s. 1, ch. 63-70; ss. 16, 35, ch. 69-106; s. 192, ch. 71-377; s. 20, ch. 73-325; s. 3, ch. 76-168; s. 188, ch. 77-104; s. 1, ch. 77-457; s. 9, ch. 78-95; ss. 21, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 1, 4, ch. 82-84; ss. 28, 51, 52, ch. 90-339; s. 4, ch. 91-429; s. 11, ch. 93-53; s. 48, ch. 95-144; s. 4, ch. 2007-237; s. 8, ch. 2008-55.
Note.--Former ss. 511.05, 511.051.

509.271 Prerequisite for issuance of municipal or county occupational license.--A municipality or county may not issue an occupational license to any business coming under the provisions of this chapter until a license has been procured for such business from the division.

History.--s. 49, ch. 16042, 1933; CGL 1936 Supp. 3355(1); s. 7, ch. 29821, 1955; ss. 16, 35, ch. 69-106; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 22, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 29, 51, 52, ch. 90-339; s. 4, ch. 91-429.
Note.--Former s. 511.04.

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

(1) The division or an agent of the division, upon ascertaining by inspection that any public lodging establishment or public food service establishment is being operated contrary to the provisions of this chapter, shall make complaint and cause the arrest of the violator, and the state attorney, upon request of the division or agent, shall prepare all necessary papers and conduct the prosecution. The division shall proceed in the courts by mandamus or injunction whenever such proceedings may be necessary to the proper enforcement of the provisions of this chapter, of the rules adopted pursuant hereto, or of orders of the division.

(2) Any operator who obstructs or hinders any agent of the division in the proper discharge of the agent's duties; who fails, neglects, or refuses to obtain a license or pay the license fee required by law; or who fails or refuses to perform any duty imposed upon it by law or rule is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day that such establishment is operated in violation of law or rule is a separate offense.

History.--s. 11, ch. 6952, 1915; RGS 2131; CGL 3360; s. 9, ch. 29821, 1955; ss. 16, 35, ch. 69-106; s. 481, ch. 71-136; s. 21, ch. 73-325; s. 26, ch. 73-334; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 23, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 30, 51, 52, ch. 90-339; s. 4, ch. 91-429; s. 673, ch. 97-103.
Note.--Former s. 511.12.

509.285 Enforcement; city and county officers to assist.--Any state or county attorney, sheriff, police officer, and any other appropriate municipal and county official shall, upon request, assist the division or any of its agents in the enforcement of this chapter.

History.--ss. 31, 52, ch. 90-339; s. 4, ch. 91-429.

509.291 Advisory council.--

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

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

(b) The Florida Restaurant and Lodging Association shall designate one representative to serve as a voting member of the council. The Florida Apartment Association and the Florida Association of Realtors shall each designate one representative to serve as a voting member of the council.

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

(2) The purpose of the advisory council 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 administered by the division; to promote and coordinate the development of programs to educate and train personnel for such industries; and to perform such other duties as prescribed by law.

(3)(a) The advisory council shall meet once each January, at which time a chairperson and vice chairperson shall be elected from the members. A member may not serve consecutive terms as a chairperson.

(b) The council shall meet at the request of the division or at the request of a majority of the members. However, the council may not hold more than one meeting in any calendar month.

(c) The council shall take action only by a majority vote of the members in attendance.

(d) The division shall provide necessary staff assistance to the council. All minutes and records of the council shall be maintained by the division and shall be made available to the public upon request.

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(4) The members of the council shall serve without compensation but shall be entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061.

(5) The secretary and the division shall periodically review with the advisory council the division's budget and financial status for the purpose of maintaining the financial stability of the division. The council shall make recommendations, when it deems appropriate, to the secretary and the division to ensure that adequate funding levels from fees, penalties, and other costs assessed by the division and paid by the industries it regulates are maintained.

(6) The division shall provide to the advisory council each year an annual internal audit of the financial records of the Hospitality Education Program for the purpose of permitting the advisory council to determine compliance with the provisions of s. 509.072(2).

History.--s. 1, ch. 28129, 1953; s. 2, ch. 29821, 1955; s. 11, ch. 57-389; ss. 16, 35, ch. 69-106; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 4, ch. 78-323; ss. 24, 39, 41, 42, ch. 79-240; ss. 1, 2, ch. 81-74; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 1, 4, ch. 82-46; ss. 32, 51, 52, ch. 90-339; s. 13, ch. 91-40; s. 4, ch. 91-429; s. 25, ch. 92-180; s. 204, ch. 94-218; s. 9, ch. 96-384; s. 248, ch. 99-8; s. 2, ch. 2000-191; s. 4, ch. 2002-299; s. 1, ch. 2007-237.
Note.--Former s. 509.052.

509.292 Misrepresenting food or food product; penalty.--

(1) An operator may not knowingly and willfully misrepresent the identity of any food or food product to any of the patrons of such establishment. The identity of food or a food product is misrepresented if:

- (a) The description of the food or food product is false or misleading in any particular;
- (b) The food or food product is served, sold, or distributed under the name of another food or food product; or
- (c) The food or food product purports to be or is represented as a food or food product that does not conform to a definition of identity and standard of quality if such definition of identity and standard of quality has been established by custom and usage.

(2) If the food or food product is a fruit or fruit juice, its identity is misrepresented if:

- (a) The description of the fruit or fruit juice is false or misleading in any particular;
- (b) The fruit or fruit juice is served, sold, or distributed under the name of another fruit or fruit juice; or
- (c) A synthetic or flavored drink is sold purporting to be fruit juice.

The term "fresh juice" refers to a juice without additives and prepared from the original fruit within 12 hours or less of sale.

(3) Any person who violates any provision of this section is guilty of a misdemeanor of the second

degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 1, ch. 57-412; s. 482, ch. 71-136; s. 7, ch. 71-157; s. 22, ch. 73-325; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 25, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 33, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.302 Hospitality Education Program.--

(1)(a) The division shall administer an educational program, designated the "Hospitality Education Program," offered for the benefit of the hospitality industries of this state. As used in this section, the term "hospitality industry" means the restaurant industry or the lodging industry.

(b) The program may affiliate with Florida State University, Florida International University, and the University of Central Florida. The program may also affiliate with any other member of the State University System or Florida Community College System, or with any privately funded college or university, which offers a program of hospitality administration and management.

(c) The purpose of the program is to provide, support, and enhance school-to-career training and transition programs for students interested in pursuing careers in a hospitality industry.

(d) The training and transition programs shall be funded through grants to one or more nonprofit statewide organizations that represent a hospitality industry of this state. The training and transition programs shall be delivered through the public school system using a nationally recognized curriculum approved by the division. The division shall administer the application process for the grants.

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

(b) The division shall use at least 68 percent of the funds collected under paragraph (a) for programs directed to careers in the restaurant industry and at least 14 percent of the funds for programs directed to careers in the lodging industry. If the division does not receive a sufficient number of grant applications, which are submitted timely and comply with the division's requirements, to use all of the funds reserved for programs directed to careers in one of the industries, the division may use the remaining funds for programs directed to careers in the other industry.

(c) The division may use up to 10 percent of the funds collected under paragraph (a) for administration of the program.

(3) Notwithstanding any other provision of law to the contrary, grant funding under this section shall include all expenses related to providing the

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programs, including the cost of staff support; student scholarships; compensation to program instructors for time spent in relevant training; special events or competitive events; and a reasonable stipend for travel, lodging, and meals for instructors and students participating in training or in related special events. All of an applicant's expenses must be consistent with the budget submitted by the applicant in the grant application and approved by the division. The expenditure of all funds distributed under this section is subject to audit by the division.

(4) The director shall develop an annual budget, programs, and activities to accomplish the purposes of this section, in accordance with and subject to the advice and recommendations of the advisory council.

(a) The annual budget of the Hospitality Education Program must show that the total fees estimated to be collected during the next fiscal year under this section will be dedicated solely to the estimated cost of funding the Hospitality Education Program, less any trust fund service charge imposed by s. 215.20. If the estimated cost of funding the Hospitality Education Program in any fiscal year is less than the total fees estimated to be collected during that year, the director shall submit a report to the advisory council demonstrating why the amount of the fee should not be immediately reduced to eliminate the projected surplus. The director shall also submit this report to the Secretary of Business and Professional Regulation as part of the division's annual budget request.

(b) Both the secretary's legislative budget requests submitted under ss. 216.023 and 216.031 and the Governor's recommended budget submitted under s. 216.163 must also show that the total fees estimated to be collected during the next fiscal year under this section will be dedicated solely to funding the Hospitality Education Program, less any trust fund service charge imposed by s. 215.20. If the estimated cost of funding the Hospitality Education Program in any fiscal year is less than the total fees estimated to be collected during that year, the secretary shall submit a report demonstrating why the amount of the fee should not be immediately reduced to eliminate the projected surplus.

(5) The director shall supervise the administration of the programs set forth in this section and shall report the status of the programs at all meetings of the advisory council and at other times prescribed by the advisory council.

(6) The division shall adopt rules providing the criteria for grant approval and the procedures for processing grant applications. The criteria and procedures must be approved by the advisory council. The criteria shall give primary consideration to the experience and history of the applicant in representing a hospitality industry in the state, the applicant's prior commitment to school-to-career transition programs in a hospitality industry, and the

applicant's demonstrated ability to provide services statewide with industry support and participation. Grants awarded under this section shall be for a term of 4 years, with funding provided on an annual basis.

History.--s. 2, ch. 61-257; s. 2, ch. 63-204; s. 2, ch. 73-296; s. 1, ch. 75-294; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 2, 4, ch. 82-84; s. 5, ch. 86-174; ss. 34, 51, 52, ch. 90-339; s. 14, ch. 91-40; s. 4, ch. 91-429; s. 10, ch. 96-384; s. 5, ch. 98-283; s. 48, ch. 2000-154; s. 5, ch. 2002-299; s. 58, ch. 2004-357; ss. 36, 54, ch. 2007-73; s. 2, ch. 2007-237; s. 15, ch. 2009-20; s. 47, ch. 2009-195.

509.4005 Applicability of ss. 509.401-509.417.--

Sections 509.401-509.417 apply only to guests in transient occupancy in a public lodging establishment.

History.--ss. 27, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.401 Operator's right to lockout.--

(1) If, upon a reasonable determination by an operator of a public lodging establishment, a guest has accumulated a large outstanding account at such establishment, the operator may lock the guest out of the guest's rental unit for the purpose of requiring the guest to confront the operator and arrange for payment on the account. Such arrangement must be in writing, and a copy must be furnished to the guest.

(2) Once the guest has confronted the operator and made arrangements for payment on the account, the operator shall provide the guest with unrestricted access to the guest's rental unit.

(3) The operator shall at all times permit the guest to remove from the rental unit any items of personal property essential to the health of the guest.

History.--s. 1, ch. 77-249; ss. 27, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 35, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.402 Operator's right to recover premises.--

If the guest of a public lodging establishment vacates the premises without notice to the operator and the operator reasonably believes the guest does not intend to satisfy the outstanding account, the operator may recover the premises. Upon recovery of the premises, the operator shall make an itemized inventory of any property belonging to the guest and store such property until a settlement or a final court judgment is obtained on the guest's outstanding account. Such inventory shall be conducted by the operator and at least one other person who is not an agent of the operator.

History.--s. 1, ch. 77-249; ss. 28, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 36, 51, 52, ch. 90-339; s. 4, ch. 91-429.

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509.403 Operator's writ of distress.--If, after a lockout has been imposed pursuant to s. 509.401, a guest fails to make agreed-upon payments on an outstanding account, or, notwithstanding s. 509.401, if a guest vacates the premises without making payment on an outstanding account, an operator may proceed to prosecute a writ of distress against the guest and the guest's property. The writ of distress shall be predicated on the lien created by s. 713.67 or s. 713.68.

History.--s. 1, ch. 77-249; ss. 29, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 37, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.404 Writ of distress; venue and jurisdiction.--

The action under s. 509.403 shall be brought in a court of appropriate jurisdiction in the county where the property is located. When property consists of separate articles, the value of any one of which is within the jurisdictional amount of a lower court but which, taken together, exceed that jurisdictional amount, the operator may not divide the property to give jurisdiction to the lower court so as to enable the operator to bring separate actions therefor.

History.--s. 1, ch. 77-249; ss. 30, 39, 42, ch. 79-240; s. 213, ch. 79-400; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 38, 51, 52, ch. 90-339; s. 4, ch. 91-429.

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

- (1) A statement as to the amount of the guest's account at the public lodging establishment.
- (2) A statement that the plaintiff is the operator of the public lodging establishment in which the guest has an outstanding account. If the operator's interest in such account is based on written documents, a copy of such documents shall be attached to the complaint.
- (3) A statement that the operator has reasonably attempted to obtain payment from the guest for an outstanding account, either by confronting the guest or by a lockout pursuant to s. 509.401, and that the guest has failed to make any payment or that the guest has vacated the premises without paying the outstanding account.
- (4) A statement that the account is outstanding and unpaid by the guest; a statement of the services provided to the guest for which the outstanding account was accumulated; and the cause of such nonpayment according to the best knowledge, information, and belief of the operator.
- (5) A statement as to what property the operator is requesting levy against, including the inventory

conducted as prescribed by s. 509.402 if the operator has recovered the premises, and the authority under which the operator has a lien against such property. (6) A statement, to the best of the operator's knowledge, that the claimed property has not been taken for a tax, assessment, or fine pursuant to law or taken under an execution or attachment by order of any court.

History.--s. 1, ch. 77-249; ss. 31, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 39, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.406 Prejudgment writ of distress.--

(1) A prejudgment writ of distress may issue and the property seized may be delivered forthwith to the plaintiff when the nature of the claim, the amount thereof, and the grounds relied upon for the issuance of the writ clearly appear from specific facts shown by the verified petition or by separate affidavit of the plaintiff.

(2) The prejudgment writ of distress may issue if the court finds, pursuant to subsection (1), that the defendant is engaging in, or is about to engage in, conduct that may place the claimed property in danger of destruction, concealment, removal from the state, removal from the jurisdiction of the court, or transfer to an innocent purchaser during the pendency of the action and that the defendant has failed to make payment as agreed.

(3) The plaintiff shall post bond in the amount of twice the estimated value of the goods subject to the writ or twice the balance of the outstanding account, whichever is the lesser as determined by the court, as security for the payment of damages the defendant may sustain if the writ is wrongfully obtained.

(4) The defendant may obtain release of the property seized under a prejudgment writ of distress by posting bond with surety within 10 days after service of the writ, in the amount of one and one-fourth the claimed outstanding account, for the satisfaction of any judgment which may be rendered against the defendant, conditioned upon delivery of the property if the judgment should require it.

(5) A prejudgment writ of distress shall issue only upon a signed order of a circuit court judge or a county court judge. The prejudgment writ of distress shall include a notice of the defendant's right to immediate hearing before the court issuing the writ.

(6) As an alternative to the procedure prescribed in subsection (4), the defendant, by motion filed with the court within 10 days after service of the writ, may obtain the dissolution of a prejudgment writ of distress, unless the plaintiff proves the grounds upon which the writ was issued. The court shall set such motion for an immediate hearing.

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History.--s. 1, ch. 77-249; ss. 32, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 40, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.407 Writ of distress; levy of writ.--The officer of the court to whom a final judgment writ of distress is directed shall execute the writ of distress by service on defendant and by levy on property distrainable for services rendered, if found within the area of the officer's jurisdiction. If the property is not so found but is in another jurisdiction, the officer shall deliver the writ to the proper authority in the other jurisdiction. The writ shall be executed by levying on such property and delivering it to the officer of the court in which the action is pending, to be disposed of according to law, unless the officer is ordered by such court to hold the property and dispose of it according to law. If the defendant cannot be found, the levy on the property suffices as service if the plaintiff and the officer each file a sworn statement stating that the whereabouts of the defendant are unknown.

History.--s. 1, ch. 77-249; ss. 33, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 41, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.408 Prejudgment writ; form; return.--The prejudgment writ issued under s. 509.406 shall command the officer to whom it may be directed to distrain the described personal property of defendant and hold such property until final judgment is rendered.

History.--s. 1, ch. 77-249; ss. 34, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 51, 52, ch. 90-339; s. 4, ch. 91-429.

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

History.--s. 1, ch. 77-249; ss. 35, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 42, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.411 Exemptions from writ of distress.--The following property of a guest is exempt from distress and sale under this chapter:

(1) From final distress and sale: clothing and items essential to the health and safety of the guest.

(2) From prejudgment writ of distress: clothing, items essential to the health and safety of the guest, and any tools of the guest's trade or profession, business papers, or other items directly related to such trade or profession.

History.--s. 1, ch. 77-249; ss. 37, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 43, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.412 Writ; claims by third persons.--Any third person claiming any property distrained pursuant to this chapter may interpose and prosecute a claim for the property in the same manner as is provided in similar cases of claim to property levied on under execution.

History.--s. 1, ch. 77-249; ss. 38, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 44, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.413 Judgment for plaintiff when goods not delivered to defendant.--If it appears that the account stated in the complaint is wrongfully unpaid and the property described in such complaint is the defendant's and was held by the officer executing the prejudgment writ, the plaintiff shall have judgment for damages sustained by the plaintiff, which may include reasonable attorney's fees and costs, by taking title to the defendant's property in the officer's possession or by having the property sold as prescribed in s. 509.417.

History.--s. 1, ch. 77-249; ss. 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 45, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.414 Judgment for plaintiff when goods retained by or redelivered to defendant.--

(1) If it appears that the property was retained by, or redelivered to, the defendant on the defendant's forthcoming bond, either under s. 509.406(4) or (6), the plaintiff shall take judgment for the property, which may include reasonable attorney's fees and costs, and against the defendant and the surety on the forthcoming bond for the value of the outstanding account, and the judgment, which may include reasonable attorney's fees and costs, shall be satisfied by the recovery and sale of the property or the amount adjudged against the defendant and the defendant's surety.

(2) After the judgment is rendered, the plaintiff may seek a writ of possession for the property and execution for the plaintiff's costs or have execution against the defendant and the defendant's surety for the amount recovered and costs. If the plaintiff elects to have a writ of possession for the property and the officer is unable to find the property, the plaintiff may

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immediately have execution against the defendant and the defendant's surety for the whole amount recovered less the value of any property found by the officer. If the plaintiff has execution for the whole amount, the officer shall release all property taken under the writ of possession.

(3) In any proceeding to ascertain the value of the property so that judgment for the value may be entered, the value of each article shall be found.

History.--s. 1, ch. 77-249; ss. 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 46, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.415 Judgment for defendant when goods are retained by or redelivered to the defendant.--

When property has been retained by, or redelivered to, the defendant on the defendant's forthcoming bond or upon the dissolution of a prejudgment writ and the defendant prevails, the defendant shall have judgment against the plaintiff for any damages due for the taking of the property, which may include reasonable attorney's fees and costs. The remedies provided in this section and s. 509.416 do not preclude any other remedies available under the laws of this state.

History.--s. 1, ch. 77-249; ss. 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 47, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.416 Judgment for defendant when goods are not retained by or redelivered to the defendant.--

If the property has not been retained by, or redelivered to, the defendant and the defendant prevails, judgment shall be entered against the plaintiff for possession of the property. Such judgment may include reasonable attorney's fees and costs. The remedies provided in s. 509.415 and this section do not preclude any other remedies available under the laws of this state.

History.--s. 1, ch. 77-249; ss. 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 48, 51, 52, ch. 90-339; s. 4, ch. 91-429.

509.417 Writ; sale of property distrained.--

(1) If the judgment is for the plaintiff, the property in whole or in part shall, at the plaintiff's option pursuant to s. 509.413 or s. 509.414, be sold and the proceeds applied on the payment of the judgment.

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

(3) If the defendant appeals and obtains a writ of supersedes before sale of the property has occurred, the property shall be held by the officer executing the writ, and there may not be a sale or disposition of the property until final judgment is had on appeal.

History.--s. 1, ch. 77-249; ss. 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 49, 51, 52, ch. 90-339; s. 4, ch. 91-429.