

## Notice of Proposed Rule

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-1.002 Licensing and Inspection Requirements

PURPOSE AND EFFECT: The purpose and effect of this rulemaking is to incorporate a new form and an updated form by reference.

SUMMARY: The proposed rulemaking amends Rule 61C-1.002, F.A.C., to: revise an existing form which was affected by the most recent adoption of 61C-1.002, F.A.C.; and adopt a new form by reference that attests an apartment building is exempt from division licensure because it is designated primarily as housing for persons at least 62 years of age and the apartment is inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency.

The SERC examined the factors required by Section 120.541(2), F.S., and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 509.032, 509.241, 509.2112, 509.013, F.S.

LAW IMPLEMENTED: 213.0535, 509.032, 509.221, 509.241, 509.242, 509.251, 559.79, 509.2112, 509.013, 509.096, F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michelle Keith, Sr. Management Analyst II; Division of Hotels & Restaurants, Department of Business and Professional Regulation; 2601 Blair Stone Road, Tallahassee, Florida, 32399; dhr.rules@myfloridalicense.com; (850)717-1290.

THE FULL TEXT OF THE PROPOSED RULE IS:

61C-1.002 Licensing and Inspection Requirements.

(1) No change.

(2) To apply for licensure, an applicant must submit the appropriate application and the required fee, pursuant to Section 509.251, F.S. and Rule 61C-1.008, F.A.C., to the division. Any license fee received by the division is non-refundable once the establishment commences operation.

(a) License Applications.

1. Public lodging establishments, except vacation rentals and timeshare projects, required to be licensed by the division, under Chapter 509, F.S., must submit DBPR HR-7027, Application for Public Lodging Establishment License (<http://www.flrules.org/Gateway/reference.asp?No=Ref-14782>), incorporated herein by reference and effective 2022 August.

2. Vacation rentals and timeshare projects required to be licensed by the division under Chapter 509, F.S., must submit DBPR HR-7028, Application for Vacation Rental or Timeshare Project License (<http://www.flrules.org/Gateway/reference.asp?No=Ref-12476>), incorporated herein by reference and effective 2020 December.

3. Public food service establishments required to be licensed by the division under Chapter 509, F.S., must submit one of the following applications, as appropriate to the establishment.

a. DBPR HR-7007, Application for Public Food Service Establishment License (<http://www.flrules.org/Gateway/reference.asp?No=Ref-14781>), incorporated herein by reference and effective 2022 August.

b. DBPR HR-7030, Application for Public Food Service Establishment License with Plan Review (<http://www.flrules.org/Gateway/reference.asp?No=Ref-1533612477>), incorporated herein by reference and effective 2023 March ~~2020 December~~.

c. DBPR HR-7031, Application for Mobile Food Dispensing Vehicle License with Plan Review (<http://www.flrules.org/Gateway/reference.asp?No=Ref-14783>), incorporated herein by reference and effective 2022 August.

4.a. Temporary public food service establishments required to be licensed by the division under Chapter 509, F.S., must complete DBPR Form HR 5021-029, Temporary Event Vendor Receipt, Application and Inspection (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12471>), incorporated herein by reference and effective 2020 December. The division will provide a copy of this application at the time of inspection.

b. Pursuant to Section 559.79(1), F.S., the application shall require the name, address and social security number of each person who owns 10 percent or more of the outstanding stock or equity interest in the licensed activity. The division shall keep the social security number of each person reported on the application confidential, except in accordance with Section 559.79(3), F.S., and as provided in law with other governmental agencies.

c. Pursuant to Section 213.0535, F.S., the application shall require the federal employer identification number and sales tax identification number of the applicant. The division shall keep such numbers confidential except as provided in conjunction with the Registration Information Sharing and Exchange Program and as provided in law with other governmental agencies.

(3) No change.

(4) Public lodging establishments as defined in Section 509.013(4), F.S., are licensed in accordance with the classifications in Section 509.242, F.S., and:

(a) through (c) No change.

(d) Attestation for HUD Exclusion from Public Lodging Establishment License.

1. As provided in section 509.013(4)(b)8., F.S., any apartment building designated primarily as housing for persons at least 62 years of age which is inspected by the United States Department of Housing and Urban Development or other entity acting on its behalf is excluded from division licensure.

2. Attestation for exclusion shall be submitted on DBPR HR-7032, Attestation for HUD Exclusion from Public Lodging Establishment License (<http://www.flrules.org/Gateway/reference.asp?No=Ref-15335>) incorporated herein by reference and effective 2023 March.

a. The exclusion may be partial and apply to specific individual apartment buildings or it may be full and apply to the entire apartment complex.

b. Upon change of ownership, a new Attestation for HUD Exclusion from Public Lodging Establishment License shall be completed and submitted by the new operator.

c. If circumstances change and the exclusion no longer applies, the operator must notify the division and submit a DBPR HR-7027, Application for Public Lodging Establishment License.

(5) through (9) No change.

*Rulemaking Authority 509.032, 509.241, 509.2112, 509.013, FS. Law Implemented 213.0535, 509.032, 509.221, 509.241, 509.242, 509.251, 559.79, 509.2112, 509.013, 509.096, FS. History-New 1-20-63, Amended 9-19-63, 5-20-64, 2-23-66, 8-9-68, 2-4-71, 10-18-71, Repromulgated 12-18-74, Amended 9-1-83, 10-1-83, Formerly 7C-1.02, Amended 1-30-90, 12-31-90, 2-27-92, 6-15-92, Formerly 7C-1.002, Amended 3-31-94, 3-15-95, 10-9-95, 9-25-96, 5-11-98, 9-9-03, 1-1-13, 7-4-13, 7-1-14, 11-20-14, 12-28-15, 2-24-16, 7-11-16, 12-28-16, 7-16-17, 9-2-18, 2-18-21, 11-28-21, 12-5-22, \_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Steven von Bodungen, Director, Division of Hotels and Restaurants, Department of Business and Professional Regulation.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Melanie S. Griffin, Secretary, Department of Business and Professional Regulation.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 29, 2023

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: 2/6/2023