

By Senator Diaz

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1 A bill to be entitled

2 An act relating to vacation rentals; amending s.

3 509.013, F.S.; defining the term "advertising

4 platform"; amending s. 509.032, F.S.; preempting the

5 regulation of vacation rentals to the state; providing

6 legislative findings; authorizing a local law,

7 ordinance, or regulation to regulate certain

8 activities under certain circumstances; prohibiting a

9 local law, ordinance, or regulation from allowing or

10 requiring inspections or licensing of vacation

11 rentals; preempting the regulation of advertising

12 platforms to the state; amending s. 509.241, F.S.;

13 requiring licenses issued by the Division of Hotels

14 and Restaurants of the Department of Business and

15 Professional Regulation to be displayed conspicuously

16 to the public inside the licensed establishment;

17 requiring the operator of certain vacation rentals to

18 also display its vacation rental license number and

19 applicable tax account numbers; amending s. 509.242,

20 F.S.; revising the criteria for a public lodging

21 establishment to be classified as a vacation rental;

22 creating s. 509.243, F.S.; requiring advertising

23 platforms to require that persons placing

24 advertisements for vacation rentals include certain

25 information in the advertisements; providing that the

26 advertising platform is not required to verify such

27 information; requiring each advertising platform to

28 quarterly provide the division with certain

29 information regarding vacation rentals in this state

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30 listed on the platform; requiring an advertising
31 platform to remove an advertisement or listing under
32 certain conditions and within a specified timeframe;
33 authorizing the division to issue and deliver a notice
34 to cease and desist for certain violations; providing
35 that such notice does not constitute agency action for
36 which a certain hearing may be sought; authorizing the
37 division to file certain proceedings; authorizing the
38 collection of attorney fees and costs under certain
39 circumstances; providing applicability; providing
40 effective dates.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Subsection (17) is added to section 509.013,
45 Florida Statutes, to read:

46 509.013 Definitions.—As used in this chapter, the term:

47 (17) "Advertising platform" means a person who:

48 (a) Provides an online application, software, website,
49 system, or print advertisement through which a transient public
50 lodging establishment located in this state is advertised or
51 held out to the public as available to rent for transient
52 occupancy;

53 (b) Provides or maintains a marketplace for the renting by
54 transient occupancy of a vacation rental; or

55 (c) Provides a reservation or payment system that
56 facilitates a transaction for the renting by transient occupancy
57 of a vacation rental and for which the person collects or
58 receives, directly or indirectly, a fee in connection with the

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59 reservation or payment service provided for such transaction.

60
 61 The term does not include the multiple listing service or an
 62 online or print advertisement of a transient public lodging
 63 establishment by a real estate broker or sales associate
 64 licensed under chapter 475; however, a real estate broker or
 65 sales associate licensed under chapter 475 must comply with s.
 66 509.243(3).

67 Section 2. Subsection (7) of section 509.032, Florida
 68 Statutes, is amended to read:

69 509.032 Duties.—

70 (7) PREEMPTION AUTHORITY.—

71 (a) Public lodging establishments and public food service
 72 establishments.—

73 1. Preemption.—The regulation of public lodging
 74 establishments, including vacation rentals, and public food
 75 service establishments, including, but not limited to,
 76 sanitation standards, inspections, training and testing of
 77 personnel, and matters related to the nutritional content and
 78 marketing of foods offered in such establishments, is preempted
 79 to the state. This ~~subparagraph~~ ~~paragraph~~ does not preempt the
 80 authority of a local government or local enforcement district to
 81 conduct inspections of public lodging and public food service
 82 establishments for compliance with the Florida Building Code and
 83 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
 84 633.206.

85 2. ~~(b)~~ Vacation rentals.—

86 a. The Legislature finds that:

87 (I) Property owners who choose to use their property as a

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88 vacation rental have constitutionally protected property rights
 89 and other rights that must be protected, including the right to
 90 use their residential property as a vacation rental;

91 (II) Vacation rentals play a significant, unique, and
 92 critical role in this state's tourism industry, and that role is
 93 different from other types of public lodging establishments;

94 (III) There are factors unique to the ownership and
 95 operation of a vacation rental; and

96 (IV) Vacation rentals are residential in nature, a
 97 residential use, and thus permitted in residential
 98 neighborhoods.

99 b. Except as provided under this subparagraph, the
 100 regulation of vacation rentals, including inspection and
 101 licensing, is expressly preempted to the state.

102 c. A local law, ordinance, or regulation may regulate
 103 activities that arise when a property is used as a vacation
 104 rental if the law, ordinance, or regulation applies uniformly to
 105 all residential properties without regard to whether the
 106 property is used as a vacation rental as defined in s. 509.242,
 107 the property is used as a long-term rental subject to chapter
 108 83, or the property owner chooses not to rent the property.

109 However, a local law, ordinance, or regulation may not prohibit
 110 ~~vacation~~ rentals or regulate the duration or frequency of ~~rental~~
 111 ~~of vacation~~ rentals. This ~~sub-subparagraph~~ ~~paragraph~~ does not
 112 apply to any local law, ordinance, or regulation adopted on or
 113 before June 1, 2011.

114 d. A local law, ordinance, or regulation may not allow or
 115 require the inspection or licensing of vacation rentals.

116 e. ~~(e)~~ This subparagraph ~~paragraph (b)~~ does not apply to any

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117 local law, ordinance, or regulation exclusively relating to
118 property valuation as a criterion for vacation rental if the
119 local law, ordinance, or regulation is required to be approved
120 by the state land planning agency pursuant to an area of
121 critical state concern designation.

122 (b) Advertising platforms.—The regulation of advertising
123 platforms is preempted to the state and shall be regulated under
124 this chapter.

125 Section 3. Effective January 1, 2021, subsection (3) of
126 section 509.241, Florida Statutes, is amended to read:

127 509.241 Licenses required; exceptions.—

128 (3) DISPLAY OF LICENSE.—Any license issued by the division
129 must shall be conspicuously displayed to the public inside in
130 the office or lobby of the licensed establishment. Public food
131 service establishments that which offer catering services must
132 shall display their license number on all advertising for
133 catering services. The operator of a vacation rental offered for
134 transient occupancy through an advertising platform must also
135 display the vacation rental license number and the applicable
136 Florida sales tax registration and tourist development tax
137 account numbers under which such taxes must be paid for each
138 rental of the property as a vacation rental.

139 Section 4. Paragraph (c) of subsection (1) of section
140 509.242, Florida Statutes, is amended to read:

141 509.242 Public lodging establishments; classifications.—

142 (1) A public lodging establishment shall be classified as a
143 hotel, motel, nontransient apartment, transient apartment, bed
144 and breakfast inn, timeshare project, or vacation rental if the
145 establishment satisfies the following criteria:

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146 (c) *Vacation rental.*—A vacation rental is a any unit or
147 group of units in a condominium or cooperative or in an any
148 individually or collectively owned single-family, two-family,
149 three-family, or four-family house or dwelling unit that is also
150 a transient public lodging establishment but ~~that is~~ not a
151 timeshare project.

152 Section 5. Effective January 1, 2021, section 509.243,
153 Florida Statutes, is created to read:

154 509.243 Advertising platforms.—

155 (1) (a) An advertising platform must require that a person
156 who places an advertisement for the rental of a vacation rental:

157 1. Include in the advertisement the vacation rental license
158 number and the applicable Florida sales tax registration and
159 tourist development tax account numbers under which such taxes
160 must be paid before the advertisement may be listed; and

161 2. Attest to the best of their knowledge that the license
162 number for the vacation rental property and the applicable tax
163 numbers are current, valid, and accurately stated in the
164 advertisement.

165 (b) An advertising platform must display the license number
166 and applicable Florida sales tax registration and tourist
167 development tax numbers, but the advertising platform is not
168 required to verify such information.

169 (2) An advertising platform must provide to the division on
170 a quarterly basis, by file transfer protocol or electronic data
171 exchange file, a list of all vacation rental listings in this
172 state on its platform and all of the following information for
173 each listing:

174 (a) The uniform resource locator for the Internet address

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175 of the listing.

176 (b) The vacation rental license number provided by the
177 owner or operator.

178 (c) The applicable Florida sales tax registration and
179 tourist development tax numbers under which taxes will be
180 remitted for rentals commenced through the advertisement.

181 (3) An advertising platform must remove from public view an
182 advertisement or listing from its online application, software,
183 website, or system within 15 business days after being notified
184 by the division in writing that the subject advertisement or
185 listing for the rental of a vacation rental located in this
186 state fails to display a valid license number issued by the
187 division.

188 (4) If the division has probable cause to believe that a
189 person not licensed by the division has violated this chapter,
190 or any rule adopted pursuant thereto, the division may issue and
191 deliver to such person a notice to cease and desist from the
192 violation. The issuance of a notice to cease and desist does not
193 constitute agency action for which a hearing under ss. 120.569
194 and 120.57 may be sought. For the purpose of enforcing a cease
195 and desist notice, the division may file a proceeding in the
196 name of the state seeking the issuance of an injunction or a
197 writ of mandamus against any person who violates any provision
198 of the notice. If the department is required to seek enforcement
199 of the notice for a penalty pursuant to s. 120.569, it is
200 entitled to collect its attorney fees and costs, together with
201 any cost of collection.

202 Section 6. The Legislature does not intend for the
203 application of this act to supersede any current or future

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204 declaration or declaration of condominium adopted pursuant to
 205 chapter 718, Florida Statutes, cooperative documents adopted
 206 pursuant to chapter 719, Florida Statutes, or declaration of
 207 covenants or declaration adopted pursuant to chapter 720,
 208 Florida Statutes.

209 Section 7. Except as otherwise expressly provided in this
 210 act, this act shall take effect upon becoming a law.