The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL:	SB 1640
INTRODUCER:	Senator Simmons
SUBJECT:	Vacation Rentals
DATE:	January 24, 2018
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	**Pre-meeting**
2.			RI	
3.			AP	

I. Summary:

SB 1640 amends Chapter 509, F.S., as related to vacation rentals by amending the definition of a transient public lodging establishment to include "any part of a unit". The bill regulates "commercial vacation rentals" and requires registration and biannual inspections. The bill additionally regulates "hosting platforms" that are used to advertise and facilitate the rental of transient public lodging establishments to the public through an online platform. The bill allows local governments to regulate activities that arise when a property is used as a vacation rental, provided the regulation applies uniformly to all residential properties. The Division of Hotels and Restaurants is provided with the authority to implement the act, including licensure, auditing, and enforcement.

II. Present Situation:

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR) is the state agency charged with enforcing the provisions of chapter 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

The term "public lodging establishments" includes transient and nontransient public lodging establishments.[1] The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the length of the rentals.

A "transient public lodging establishment" is defined in s. 509.013(4)(a)1., F.S., as:

[1] Section 509.013(4)(a), F.S.

> 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.

A ”nontransient public lodging establishment” is defined in s. 509.013(4)(a)2., F.S., as:

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

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

> 1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors.
> 2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.
> 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, F.S.
> 6. Any establishment inspected by the Department of Health and regulated by ch. 513, F.S.
> 7. Any nonprofit organization that operates a facility providing housing only to patients, patients’ families, and patients’ caregivers and not to the general public.
> 8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department’s behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement.
> 9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242 F.S.

Public lodging establishments are classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.[2]

A "vacation rental" is defined in s. 509.242(1)(c), F.S., as:

> any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but is not a timeshare project.

The department licenses vacation rentals as condominiums, dwellings, or timeshare projects.[3] The division may issue a vacation rental license for "a single-family house, a townhouse, or a unit or group of units in a duplex, triplex, quadruplex, or other dwelling unit that has four or less units collectively."[4]

The 41,931 public lodging establishments licensed by the division are distributed as follows:[5]

- Hotels – 1,916 licenses;
- Motels – 2,600 licenses;
- Nontransient apartments – 18,008 licenses;
- Transient apartments – 895 licenses;
- Bed and Breakfast Inns – 259 licenses;
- Vacation rental condominiums – 5,037 licenses;
- Vacation rental dwellings – 13,196 licenses; and
- Vacation rental timeshare projects – 20 licenses.

Inspections of Vacation Rentals

The division must inspect each licensed public lodging establishment at least biannually, but transient and nontransient apartments must be inspected at least annually. However, the division is not required to inspect vacation rentals, but vacation rentals must be available for inspection upon a request by the division.[6] The division inspects a vacation rental in response to a consumer complaint related to sanitation issues or unlicensed activity. In Fiscal Year 2016-2017, the division received 457 consumer complaints regarding vacation rentals and inspected the vacation rentals.[7]

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[2] Section 509.242(1), F.S.
[3] Fla. Admin. Code R. 61C-1.002(4)(a)1.
[4] The division further classifies a vacation rental license as a single, group, or collective license. See Fla. Admin. Code R. 61C-1.002(4)(a)1. A single license may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity. A group license is a license issued by the division to a licensed agent to cover all units within a building or group of buildings in a single complex. A collective license is a license issued by the division to a licensed agent who represents a collective group of houses or units found on separate locations not to exceed 75 houses per license.
[5] *Division of Hotels and Restaurants Annual Report for FY 2016-2017*, Department of Business and Professional Regulation. A copy of the report is available at: http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2016_17.pdf (Last visited January 24, 2018).
[6] Section 509.032(2)(a), F.S.
[7] *See supra* note 5, at 23.

Preemption

Section 509.032(7)(a), F.S., provides that "the regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state."

Section 509.032(7)(b), F.S., prohibits local laws, ordinances, or regulations that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

Section 509.032(7)(c), F.S., provides that the prohibition in s. 509.032(7)(b), F.S., does not apply to local laws, ordinances, or regulations exclusively relating to property valuation as a criterion for vacation rental if the law, ordinance or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.[8]

Legislative History

In 2011, the Legislature preempted vacation rental regulation to the state. The preemption prevented local governments from enacting any law, ordinance, or regulation that:

- Restricted the use of vacation rentals;
- Prohibited vacation rentals; or
- Regulated vacation rentals based solely on their classification, use, or occupancy.[9]

This legislation grandfathered any local law, ordinance, or regulation that was enacted by a local government on or before June 1, 2011.[10]

In 2014, the Legislature revised the preemption to its current form with an effective date of July 1, 2014.[11] Chapter 2014-71, Laws of Fla., amended s. 509.032(7)(b), F.S., and repealed the portions of the preemption of local laws, ordinances, and regulations which prohibited "restrict[ing] the use of vacation rentals" and which prohibited regulating vacation rentals "based solely on their classification, use or occupancy."[12]

Attorney General Opinion

The office of the Attorney General issued an Informal Legal Opinion on October 22, 2013, regarding whether Flagler County could intercede and stop vacation rental operations in private homes that were zoned, prior to June 1, 2011, for single-family residential use.[13] According to

[8] *See* s. 163.3164(43), F.S., provides that the state land planning agency is the Department of Economic Opportunity.
[9] Chapter 2011-119, Laws of Fla.
[10] *Id.*
[11] Chapter 2014-71, Laws of Fla.; codified in s. 509.032(7)(b), F.S.
[12] *Id.*
[13] Florida Attorney General, Informal Legal Opinion to Mr. Albert Hadeed, Flagler County Attorney, regarding "Vacation Rental Operation-Local Ordinances," dated October 22, 2013.

the opinion, "due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their neighborhood." Flagler County had no regulation governing vacation rentals before the grandfather date of June 1, 2011, in s. 509.032(7)(b), F.S. The Attorney General concluded that the county's local zoning ordinance for single-family homes that predated June 1, 2011, did not restrict the rental of such property as a vacation rental and that the zoning ordinances could not now be interpreted to restrict vacation rentals.

A second advisory opinion was issued by the Attorney General on November 13, 2014, for the City of Wilton Manors concluding that s. 509.032(7)(b), F.S., does not permit the city to regulate the location of vacation rentals through zoning, and the city may not prohibit vacation rentals which fail to comply with the registration and licensing requirements in s. 509.241, F.S., which requires public lodging establishments to obtain a license from the division.[14]

In addition, the Attorney General issued a third advisory opinion on October 5, 2016, addressing whether a municipality could limit the spacing and concentration of vacation rentals through a proposed ordinance regarding vacation rentals.[15] The Attorney General concluded that the preemption in s. 509.032, F.S., allows local governments some regulation of vacation rentals, but prevents local governments from prohibiting vacation rentals. Consequently, the Attorney General noted that a municipality may not impose spacing or proportional regulations that would have the effect of preventing eligible housing from being used as a vacation rental.[16]

III. Effect of Proposed Changes:

Section 1 amends s. 212.18, F.S., requiring people who are leasing, renting, letting, or granting a license to use a transient public lodging establishment to display the valid certificate of registration in any rental listing or advertisement for the property. There is a penalty of $50 a day for violations. The penalty goes up to $100 for repeat offenders.

Section 2 amends s. 509.013, F.S., creating a definition for "commercial vacation rentals" which is defined as one license with five or more vacation rental units, or five or more rental units under common ownership, control or management. The section also adds a definition for "hosting platform" as a person who advertises the rental of transient public lodging establishments located in the state who receives compensation in connection with facilitating a guest's reservation or with collecting payment for such reservation or rental made through any online-enabled application, software, website, or system. The definition for "transient public lodging establishment" is expanded to cover the whole or part of any unit. The definition for "nontransient public lodging establishment" is also expanded to cover the whole or part of any unit. This section also adds a clause regarding places renting four rental units or less, stating that if a rental unit, in whole or in part, is advertised to guests for transient occupancy via a hosting

[14] Florida Attorney General, AGO 2014-09, Vacation Rentals - Municipalities - Land Use, November 13, 2014, available at: http://www.myfloridalegal.com/ago.nsf/printview/5DFB7F27FB483C4685257D900050D65E. (last visited January 24, 2018).
[15] Florida Attorney General, AGO 2016-12, Municipalities - Vacation Rentals - Zoning, October 5, 2016, available at: http://www.myfloridalegal.com/ago.nsf/printview/3AF7050D48068C10852580440051386C (last visited January 24, 2018).
[16] *Id.*

platform, it shall be deemed "regularly rented to transients." Additionally, for units in a condominium, cooperative, or timeshare plan, or collectively owned dwelling houses that are rented for periods of at least 30 days or 1 calendar month, if a rental unit, in whole or in part, is advertised to guests for transient occupancy via a hosting platform, it shall be deemed "regularly rented for periods of less than 1 calendar month." The section strikes the former definition of "transient establishment." The section also adjusts the definition of "transient occupancy" to mean any occupancy in which the operator prohibits the guest from using the occupied lodging as the guest's sole residence, as stated in the written rental agreement. If there is no such provision, there is a rebuttable presumption that the occupied lodging is not the sole residence of the guest, the occupancy is transient. The section strikes the former definition of "transient," "nontransient," and "nontransient establishment." The section updates the definition of "nontransient occupancy" to add that if a written rental agreement states that the operator permits the guest to use the occupied lodging as the guest's sole residence and if such agreement is for a term greater than 30 days, there is a rebuttable presumption the occupancy is nontransient. If there is no provision, there is a rebuttable presumption that when the occupied lodging is the sole residence of the guest, the occupancy is nontransient.

Section 3 amends s. 509.032, F.S., allowing the division to do additional inspections as they determine necessary to ensure the public health, safety, and welfare. It also adds commercial vacation rentals to the types of units that shall be inspected biannually. It moves language that gives rulemaking authority to the division for determining risk-based inspection frequency for licensed public food establishments.

Section 4 amends s. 509.032, F.S., allowing a local government to regulate activities that arise when a property is used as a vacation rental, provided the regulation applies uniformly to all residential properties. The local government may also regulate activities in single-family residences in which the owner does not personally occupy at least a portion of the residence where vacation rental activities are occurring. Vacation rental owners are required to submit to the local jurisdiction a copy of the vacation rental license required under ch. 509, F.S., a copy of the certificate of registration required under s. 212.18, F.S., and the owner's emergency contact information. The locals cannot assess a fee for the submission, and it is to be used for informational purposes only. The section grandfathers regulations adopted before June 1, 2011, including when the regulations are being amended to be less restrictive.

Section 5 amends s. 509.034, F.S., applying ss. 509.141-509.162 and 509.401-509.417, F.S., to guests in transient occupancy in a licensed public lodging establishment only. It previously applied these sections only to "transients," which is a definition that has been removed.

Section 6 amends s. 509.101, F.S., updating terminology per the updated definitions section.

Section 7 amends s. 509.141, F.S., making notice that a guest immediately depart from an establishment is effective immediately upon operator's delivery of the notice in any form.

Section 8 amends s. 509.151, F.S., updating terminology per the updated definitions section.

Section 9 amends s. 509.221, F.S., updating terminology per the updated definitions section. The section also subjects commercial vacation rentals to certain sanitary regulations, including the public bathroom requirement, soap and towel requirements, and bedding requirements.

Section 10 amends s. 509.241, F.S., giving the division the ability to refuse to issue, refuse to renew, suspend, or revoke the license of any public lodging establishment that is the subject of a final order from a local government directing the public lodging establishment to cease operations due to violation of a local ordinance. Vacation rental operators shall display the unit's license number in all rental listings or advertisements, and if the operator is offering for rent the whole or any portion of a unit or dwelling through the rental listing or advertisement, the operator shall also display the physical address of the property, including any unit designation.

Section 11 amends s. 509.242, F.S., updating the definition of a vacation rental to include the whole or any part of a unit. The division may require that applicants and licensees provide all information necessary to determine common ownership, control, or management of vacation rentals. The section also updates the definition of a "nontransient apartment" to a building or complex of buildings in which 75 percent or more of the units are advertised or held out to the public as available for nontransient occupancy.

Section 12 creates s. 509.243, F.S., to regulate hosting platforms for transient public lodging establishments. An operator may not advertise or list its rental properties with a hosting platform unless the hosting platform is registered with the division pursuant to this section. A hosting platform may not advertise for rent, facilitate a guest's reservation, or collect payments for the reservation or rental of a public lodging establishment that is not licensed by the division as required by s. 509.241, F.S. A person may not operate as a hosting platform for transient public lodging establishments located in this state unless registered with the division pursuant to this section. The division will issue a registration to each person who meets the requirements of this section and who pays the required registration fee, which will be deposited into the Hotel and Restaurant Trust Fund. Fees will be based on the number of transient lodging establishments served by the hosting platform. A hosting platform must designate and maintain on file with the division an agent for service of process in the state. Hosting platforms may collect and remit state and local taxes on behalf of the operators of the public lodging establishments which it serves. Hosting platforms must maintain records listing each transient public lodging establishment that it serves, the name of the operator, the license number and the physical address. Records must detail each period of rental reserved through the hosting platform and the itemized amounts collected from the guests by the hosting platform for the rental, taxes, and all other charges. Records must be maintained by the hosting platform for a period of three years and must be transmitted to the division every three months in an electronic format. The division shall audit such records at least annually to enforce compliance with this chapter. Hosting platforms operating in violation of this section may be subject by the division to fines not to exceed $1,000 per offense and to suspension, revocation, or refusal of a registration issued pursuant to this section.

Section 13 amends s. 509.4005, F.S., to apply ss. 509.401-509.417, F.S., to licensed public lodging establishments.

Section 14 requires the Department of Revenue (DOR) and counties to provide an amnesty program for unpaid taxes, penalties, and interest for persons engaging in leasing, renting, letting or granting licenses to use a vacation rental subject to the following conditions:

- A customer's payment for the vacation rental must have been made before October 1, 2018.
- By October 1, 2018, the person who collects rental payments must be registered with the department to collect taxes on vacation rentals.
- By October 1, 2018 the person who collects rental payments must apply for amnesty pursuant to the rules adopted by the department.
- The owners, operators, or managers of the vacation rental must have collected the rental payments.
- Taxes may not have been collected from any customer to occupy a vacation rental.
- The amnesty program is not available for taxes, penalties, or interest assessed if the assessment is final and has not been timely challenged, or for taxes, penalties, or interest that have been paid to the department, unless the payment is the subject of an assessment that is not final or that has been timely challenged. The department may adopt emergency rules to implement the amnesty program.

Sections 15, 16, 17, 18, 19, 20, 21, and 22 are amended to update cross references.

Section 23 provides an effective date of October 1, 2018, except as otherwise provided in the act.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

C. Government Sector Impact:

The DBPR reports revenue may increase with increased vacation rental licenses generating bed tax or other tourism taxes. There will be an indeterminate amount of licensing revenue and fines. It is unknown how many current rental offerings are exempt from licensing and will be required to become licensed.[17]

Expenditures are estimated to be $2,719,821 in fiscal year 2018-19 and a recurring $2,018,088 beginning in fiscal year 2019-20.

Hosting platforms for vacation rentals must obtain a registration from the division for a fee to be outlined in rule. Vacation rentals which were previously exempt from licensure must now obtain a license. An indeterminate increase in fines due to having more vacation rental units licensed and more sanitation and safety requirements being applicable to vacation rental units.[18]

The DBPR also reports that at least 33 FTE will be required.[19]

The currently indeterminate workload increase for legal staff resulting from this bill may not be realized for a year or two after implementation. There is a possibility additional legal staff will be required in future years. Human Resources will be able to establish the additional positions, however, an additional Personnel Services Specialist may be necessary in future years to handle the increased workload for recruitment, workers' compensation, classification and employee relations.[20]

Additionally, the new proposed language requiring a vacation rental operator to display the rental's license number in all rental listing and advertisements, as well as the physical address including any unit number designation, may result in an indeterminate number of violations and may require additional resources to implement.[21]

The DOR reports that the bill would require approximately 730 contractor hours (at $93 per hour) and 520 in-house hours to provide the necessary development to verify, pro-rate and distribute the funds in Revenue's Unified Tax System (SUNTAX). This totals $67,890.[22]

VI. Technical Deficiencies:

None.

[17] Florida Department of Business and Professional Regulation, *Senate Bill 1640 Analysis* (January 24, 2018).
[18] *Id*.
[19] *Id*.
[20] *Id*.
[21] *Id*.
[22] Florida Department of Revenue, *Senate Bill 1640 Fiscal Impact Analysis* (January 22, 2018).

VII. Related Issues:

The DBPR reports that delays caused by the rulemaking process may create challenges in completing necessary programming by the effective date.[23]

The bill may not provide the division with sufficient rulemaking authority to impose geographical or numerical limits for commercial vacation rentals. The absence of a geographical or numerical limit could result in one license covering 1,000 or more units throughout the state.

Removing vacation rentals from being exempt from the requirements of ss. 509.221(2), (5), and (6), F.S., may conflict with s. 509.221(2)(a), F.S., which directs the division to adopt a rule establishing categories of establishments that are not subject to the s. 509.221(2), F.S., public bathroom requirement and with Section 455.3.2.2, 2017 Florida Building Code – Building, Sixth, which exempts resort condominiums and resort dwellings (now called vacation rentals) from public bathroom requirements.[24] Rule 61C-1.004, F.A.C., currently excludes nontransient establishments, vacation rentals, and timeshare projects from the requirement in s. 509.221(9), F.S., concerning public bathroom facilities. Commercial vacation rental units can be private residences, and thus restricted from access to the general public. Commercial vacation rentals can revert to being private residences when not being rented out, and having to comply with the requirement on a year round basis may cause issues during times the unit is not open to the public.[25]

While the proposed amendment to s. 509.241(1), F.S., permits the division to refuse to issue, refuse to renew, suspend, or revoke the license of any public lodging establishment that is the subject of a final order from a local government directing the establishment to stop operations due to violations of a local ordinance, the division will need to be notified of the local government's final order.[26]

The new proposed definition of "commercial vacation rental" may conflict with the current definition of "single license" as licensed agents are not currently eligible for a single license.[27]

The proposed change in Section 14 provides that the DOR and any county that administers a tax imposed under ch. 125 or 212, F.S., shall provide an amnesty program. Paragraph (3) provides that "the department may adopt emergency rules… to implement the amnesty program." It may be unclear whether "the department" refers to DBPR or DOR for rulemaking authority.[28]

DOR points out that lines 124-128 reference a "transient public lodging establishment" as defined by s. 509.242, F.S. Other than the addition to s. 212.18, F.S., made by the proposed language, Chapter 212, F.S., does not use or reference this term. Ch. 509, F.S., is currently used only by the DBPR for the purpose of licensure. The DOR has no experience in applying that

[23] Florida Department of Business and Professional Regulation, *Senate Bill 1640 Analysis* (January 24, 2018).
[24] *Id*.
[25] *Id*.
[26] *Id*.
[27] *Id*.
[28] *Id*.

chapter's provisions and may have difficulties in determining whether an individual property is or is not a "transient public lodging establishment" based on an advertisement or rental listing.[29]

Lines 140-151 provide a daily penalty to be imposed on a person who fails to display a valid certificate of registration "…until the person is in compliance." This presents several possible issues. First, the Department may be unable to determine who the penalty should be imposed against, as advertisements do not always contain the name of the lessor. Second, the advertisement does not always contain the exact property address, making it impossible to send a notification. Also, even if the address is given, the lessor most likely does not reside at that address and so is unlikely to receive the notification. Third, the Department may be unable to determine the amount of time an advertisement or rental listing has been available, which could cause difficulties in calculating how much penalty to impose. Advertisements often do not contain a date on which it was first placed and do not indicate on which date(s) it may have been changed. Finally, the penalty applies until the person is in compliance, not the correction of the noncompliant listing or advertisement. Therefore, the penalty would continue until all listings were in compliance, but the issues noted previously could cause difficulties with determining if a person has come into compliance. [30]

The bill requires that the advertisements or listings to display the registration number. The listing or advertisement may be designed or published by a third party, or the information from such listings may by captured by an aggregating website for such listings, that is not programed to also capture the registration. Using the current bill language these listings and advertisements would not be in compliance and would be subject to the penalty, despite the original listing or advertisement, posted by the lessor containing the information. Additionally, the relationship between the displayer of the listing or advertisement, and the originator of the listing may be unclear, and which party is responsible for paying the penalty may be similarly unclear.[31]

The bill provides that a hosting platform may collect and remit sales and local taxes on behalf of operators of public lodging establishments which it serves. Section 212.03, F.S., requires tax to be collected and remitted by the lessor or person who receives the rental payment. This provision could create a conflict if the hosting platform is not considered the lessor or the person receiving the rental payment. It is unclear how the DOR would determine which party to a transaction is responsible for collecting and remitting the applicable tax and subject to an assessment for tax returns not submitted or on any unremitted amounts determined to be due.[32]

The bill provides an amnesty program to persons engaged in the business of renting vacation rentals, as defined by s. 509.242, F.S. Section 212.18, F.S., only addresses the requirement to register as a dealer with the DOR. It does not address the taxability of engaging in any business. As with "transient public lodging establishment," Ch. 212, F.S., does not use the term "vacation rental." Sales tax is imposed on the rental of transient accommodations under s. 212.03, F.S.[33]

As drafted, the bill presents the following issues related to the proposed amnesty program:

[29] Florida Department of Revenue, *Senate Bill 1640* Analysis (January 19, 2018).
[30] *Id*.
[31] *Id*.
[32] *Id*.
[33] *Id*.

- There is no effective date for the program.
- Although the term "vacation rental" is defined, it does not have the same meaning as terms used in Ch. 212, F.S.
- There is no indication whether a taxpayer who chooses to participate in the amnesty program can still choose to contest the tax owed.
- It is unclear whether a self-administering county that offers an amnesty program must abide by the rules promulgated by the Department.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.18, 509.013, 509.032, 509.034, 509.101, 509.141, 509.151, 509.221, 509.241, 509.242, 509.4005, 159.27, 212.08, 316.1955, 404.056, 477.0135, 553.5041, 717.1355, and 877.24.

This bill creates section 509.243 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.