

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
 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 appropriations and authorizing positions; providing
 41 effective dates.

42

43 Be It Enacted by the Legislature of the State of Florida:

44

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

47 509.013 Definitions.—As used in this chapter, the term:

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

49 (a) Provides an online application, software, website,
 50 system, or print advertisement through which a transient public

51 lodging establishment located in this state is advertised or
 52 held out to the public as available to rent for transient
 53 occupancy;

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

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

61
 62 The term does not include the multiple listing service or an
 63 online or print advertisement of a transient public lodging
 64 establishment by a real estate broker or sales associate
 65 licensed under chapter 475; however, a real estate broker or
 66 sales associate licensed under chapter 475 must comply with s.
 67 509.243(3).

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

70 509.032 Duties.—

71 (7) PREEMPTION AUTHORITY.—

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

74 1. Preemption.—The regulation of public lodging
 75 establishments, including vacation rentals, and public food

76 service establishments, including, but not limited to,
 77 sanitation standards, inspections, training and testing of
 78 personnel, and matters related to the nutritional content and
 79 marketing of foods offered in such establishments, is preempted
 80 to the state. This subparagraph ~~paragraph~~ does not preempt the
 81 authority of a local government or local enforcement district to
 82 conduct inspections of public lodging and public food service
 83 establishments for compliance with the Florida Building Code and
 84 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
 85 633.206.

86 2. ~~(b)~~ Vacation rentals.-

87 a. The Legislature finds that:

88 (I) Property owners who choose to use their property as a
 89 vacation rental have constitutionally protected property rights
 90 and other rights that must be protected, including the right to
 91 use their residential property as a vacation rental;

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

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

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

100 b. Except as provided under this subparagraph, the

101 regulation of vacation rentals, including inspection and
102 licensing, is expressly preempted to the state.

103 c. A local law, ordinance, or regulation may regulate
104 activities that arise when a property is used as a vacation
105 rental if the law, ordinance, or regulation applies uniformly to
106 all residential properties without regard to whether the
107 property is used as a vacation rental as defined in s. 509.242,
108 the property is used as a long-term rental subject to chapter
109 83, or the property owner chooses not to rent the property.
110 However, a local law, ordinance, or regulation may not prohibit
111 vacation rentals or regulate the duration or frequency of rental
112 of vacation rentals. This sub-subparagraph paragraph does not
113 apply to any local law, ordinance, or regulation adopted on or
114 before June 1, 2011.

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

117 e.-(e) This subparagraph paragraph (b) does not apply to
118 any local law, ordinance, or regulation exclusively relating to
119 property valuation as a criterion for vacation rental if the
120 local law, ordinance, or regulation is required to be approved
121 by the state land planning agency pursuant to an area of
122 critical state concern designation.

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

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

128 509.241 Licenses required; exceptions.—

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

140 Section 4. Paragraph (c) of subsection (1) of section
 141 509.242, Florida Statutes, is amended to read:

142 509.242 Public lodging establishments; classifications.—

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

147 (c) *Vacation rental.*—A vacation rental is a ~~any~~ unit or
 148 group of units in a condominium or cooperative or in an ~~any~~
 149 individually or collectively owned single-family, two-family,
 150 three-family, or four-family house or dwelling unit that is also

151 a transient public lodging establishment but ~~that is~~ not a
 152 timeshare project.

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

155 509.243 Advertising platforms.—

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

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

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

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

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

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

176 of the listing.

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

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

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

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

201 entitled to collect its attorney fees and costs, together with
202 any cost of collection.

203 Section 6. The Legislature does not intend for the
204 application of this act to supersede any current or future
205 declaration or declaration of condominium adopted pursuant to
206 chapter 718, Florida Statutes, cooperative documents adopted
207 pursuant to chapter 719, Florida Statutes, or declaration of
208 covenants or declaration adopted pursuant to chapter 720,
209 Florida Statutes.

210 Section 7. For the 2020-2021 fiscal year, the sums of
211 \$1,306,368 in recurring funds and \$116,749 in nonrecurring funds
212 from the Hotel and Restaurant Trust Fund are appropriated to the
213 Department of Business and Professional Regulation and 19 full-
214 time equivalent positions with associated salary rate of 792,021
215 are authorized for the purpose of implementing this act.

216 Section 8. Except as otherwise expressly provided in this
217 act, this act shall take effect upon becoming a law.