

By the Committee on Commerce and Tourism; and 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;  
6       prohibiting a local law, ordinance, or regulation from  
7       allowing or requiring inspections or licensing of  
8       public lodging establishments, including vacation  
9       rentals, or public food service establishments;  
10      authorizing a local law, ordinance, or regulation to  
11      regulate certain activities under certain  
12      circumstances; expanding an exemption to allow certain  
13      ordinances adopted on or before June 1, 2011, to be  
14      amended to be less restrictive; preempting the  
15      regulation of advertising platforms to the state;  
16      amending s. 509.241, F.S.; requiring licenses issued  
17      by the Division of Hotels and Restaurants of the  
18      Department of Business and Professional Regulation to  
19      be displayed conspicuously to the public inside the  
20      licensed establishment; requiring the operator of  
21      certain vacation rentals to also display its vacation  
22      rental license number and applicable tax account  
23      numbers; creating s. 509.243, F.S.; requiring  
24      advertising platforms to require that persons placing  
25      advertisements for vacation rentals include certain  
26      information in the advertisements; providing that the  
27      advertising platform is required to verify such  
28      information; requiring each advertising platform to  
29      quarterly provide the division with certain

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30 information regarding vacation rentals in this state  
31 listed on the platform; requiring an advertising  
32 platform to remove an advertisement or listing under  
33 certain conditions and within a specified timeframe;  
34 requiring an advertising platform to collect and remit  
35 taxes imposed under chs. 125 and 212, F.S., for  
36 certain transactions; authorizing the Department of  
37 Revenue to adopt rules; authorizing the division to  
38 issue and deliver a notice to cease and desist for  
39 certain violations; providing that such notice does  
40 not constitute agency action for which a certain  
41 hearing may be sought; authorizing the division to  
42 file certain proceedings; authorizing the collection  
43 of attorney fees and costs under certain  
44 circumstances; requiring an advertising platform to  
45 adopt an antidiscrimination plan and to give notice to  
46 users of its services; providing applicability;  
47 providing effective dates.

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49  
50 Be It Enacted by the Legislature of the State of Florida:

51  
52 Section 1. Subsection (17) is added to section 509.013,  
53 Florida Statutes, to read:

54 509.013 Definitions.—As used in this chapter, the term:

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

56 (a) Provides an online application, software, website, or  
57 system through which a vacation rental located in this state is  
58 advertised or held out to the public as available to rent for

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59 transient occupancy;

60 (b) Provides or maintains a marketplace for the renting by  
61 transient occupancy of a vacation rental; and

62 (c) Provides a reservation or payment system that  
63 facilitates a transaction for the renting by transient occupancy  
64 of a vacation rental and for which the person collects or  
65 receives, directly or indirectly, a fee in connection with the  
66 reservation or payment service provided for such transaction.

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

86 (b) A local law, ordinance, or regulation may regulate  
87 activities that arise when a property is used as a vacation

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88 rental if the law, ordinance, or regulation applies uniformly to  
89 all residential properties without regard to whether the  
90 property is used as a vacation rental as defined in s. 509.242,  
91 the property is used as a long-term rental subject to chapter  
92 83, or the property owner chooses not to rent the property.  
93 However, a local law, ordinance, or regulation may not prohibit  
94 vacation rentals or regulate the duration or frequency of rental  
95 of vacation rentals. This paragraph does not apply to any local  
96 law, ordinance, or regulation adopted on or before June 1, 2011,  
97 including when such law, ordinance, or regulation is being  
98 amended to be less restrictive with regard to a prohibition, or  
99 duration, or frequency regulation.

100 (c) Paragraph (b) does not apply to any local law,  
101 ordinance, or regulation exclusively relating to property  
102 valuation as a criterion for vacation rental if the local law,  
103 ordinance, or regulation is required to be approved by the state  
104 land planning agency pursuant to an area of critical state  
105 concern designation.

106 (d) The regulation of advertising platforms is preempted to  
107 the state and shall be regulated under this chapter.

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

110 509.241 Licenses required; exceptions.—

111 (3) DISPLAY OF LICENSE.—Any license issued by the division  
112 must shall be conspicuously displayed to the public inside in  
113 the office or lobby of the licensed establishment. Public food  
114 service establishments that which offer catering services must  
115 shall display their license number on all advertising for  
116 catering services. The owner or operator of a vacation rental

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117 offered for transient occupancy through an advertising platform  
118 must also display the vacation rental license number and the  
119 applicable Florida sales tax registration and tourist  
120 development tax account numbers under which such taxes must be  
121 paid for each rental of the property as a vacation rental.

122 Section 4. Effective January 1, 2021, section 509.243,  
123 Florida Statutes, is created to read:

124 509.243 Advertising platforms.—

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

127 1. Include in the advertisement the vacation rental license  
128 number and the applicable Florida sales tax registration and  
129 tourist development tax account numbers under which such taxes  
130 must be paid before the advertisement may be listed; and

131 2. Attest to the best of their knowledge that the license  
132 number for the vacation rental property and the applicable tax  
133 numbers are current, valid, and accurately stated in the  
134 advertisement.

135 (b) An advertising platform must display the vacation  
136 rental license number and applicable Florida sales tax  
137 registration and tourist development tax numbers. The  
138 advertising platform must verify that the vacation rental  
139 license number provided by the owner or operator is valid and  
140 applies to the subject vacation rental before publishing the  
141 advertisement on its platform and again at the end of each  
142 calendar quarter that the advertisement remains on its platform.

143 (c) The division shall maintain vacation rental license  
144 information in a readily accessible electronic format that is  
145 sufficient to facilitate prompt compliance with the requirements

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146 of this subsection by an advertising platform or a person  
147 placing an advertisement on an advertising platform for  
148 transient rental of a vacation rental.

149 (2) An advertising platform must provide to the division on  
150 a quarterly basis, by file transfer protocol or electronic data  
151 exchange file, a list of all vacation rentals located in this  
152 state that are advertised on its platform, along with the  
153 following information for each vacation rental:

154 (a) The uniform resource locator for the Internet address  
155 of the vacation rental advertisement.

156 (b) Unless otherwise stated in the vacation rental  
157 advertisement at the Internet address provided pursuant to  
158 paragraph (a), the physical address of the vacation rental,  
159 including any unit designation, the vacation rental license  
160 number provided by the owner or operator, and the applicable  
161 Florida sales tax registration and tourist development tax  
162 account numbers under which taxes will be remitted for the  
163 rentals commenced through the advertisement.

164 (3) An advertising platform must remove from public view an  
165 advertisement or listing from its online application, software,  
166 website, or system within 15 business days after being notified  
167 by the division in writing that the subject advertisement or  
168 listing for the rental of a vacation rental located in this  
169 state fails to display a valid license number issued by the  
170 division.

171 (4) If a guest uses a payment system on or through an  
172 advertising platform to pay for the rental of a vacation rental  
173 located in this state, the advertising platform shall collect  
174 and remit all taxes imposed under chapters 125 and 212 resulting

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175 from the rental. When calculating taxes imposed under chapters  
176 125 and 212, an advertising platform may exclude the amount of  
177 any fees directly attributable to the service provided by the  
178 advertising platform. The Department of Revenue is authorized to  
179 adopt rules to implement this subsection.

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

194 (6) Advertising platforms must adopt an antidiscrimination  
195 plan in order to help prevent discrimination among its users and  
196 must inform all users of their services that it is illegal to  
197 refuse accommodation to an individual based on race, creed,  
198 color, sex, pregnancy, physical disability, or national origin,  
199 pursuant to s. 509.092.

200 Section 5. The application of this act shall not supersede  
201 any current or future declaration or declaration of condominium  
202 adopted pursuant to chapter 718, Florida Statutes, cooperative  
203 documents adopted pursuant to chapter 719, Florida Statutes, or

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204 declaration of covenants or declaration adopted pursuant to  
205 chapter 720, Florida Statutes.

206       Section 6. Except as otherwise expressly provided in this  
207 act, this act shall take effect upon becoming a law.