

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;  
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; providing an exemption; expanding an  
13      exemption to allow certain ordinances adopted on or  
14      before a certain date to be amended to be less  
15      restrictive; preempting the regulation of advertising  
16      platforms to the state; amending s. 509.241, F.S.;  
17      requiring licenses issued by the Division of Hotels  
18      and Restaurants of the Department of Business and  
19      Professional Regulation to be displayed conspicuously  
20      to the public inside the licensed establishment;  
21      requiring the owner or operator of certain vacation  
22      rentals to also display its vacation rental license  
23      number and applicable tax account numbers; creating s.  
24      509.243, F.S.; requiring advertising platforms to  
25      require that persons placing advertisements for  
26      vacation rentals include certain information in the  
27      advertisements; requiring advertising platforms to  
28      display and verify such information; requiring the  
29      division to maintain certain information in a readily

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30 accessible electronic format; requiring advertising  
31 platforms to quarterly provide the division with  
32 certain information regarding vacation rentals in this  
33 state listed on the platforms; requiring advertising  
34 platforms to remove an advertisement or a listing  
35 under certain conditions and within a specified  
36 timeframe; requiring advertising platforms to collect  
37 and remit taxes imposed under chs. 125 and 212, F.S.,  
38 for certain transactions; authorizing the Department  
39 of Revenue to adopt rules; authorizing the division to  
40 issue and deliver a notice to cease and desist for  
41 certain violations; providing that such notice does  
42 not constitute agency action for which certain  
43 hearings may be sought; authorizing the division to  
44 file certain proceedings and to seek certain remedies  
45 for the purpose of enforcing a cease and desist  
46 notice; authorizing the collection of attorney fees  
47 and costs under certain circumstances; requiring  
48 advertising platforms to adopt an antidiscrimination  
49 plan and to inform their users of the policy's  
50 provisions; providing applicability; providing  
51 effective dates.

52  
53 Be It Enacted by the Legislature of the State of Florida:

54  
55 Section 1. Subsection (17) is added to section 509.013,  
56 Florida Statutes, to read:

57 509.013 Definitions.—As used in this chapter, the term:  
58 (17) "Advertising platform" means an entity that:

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59 (a) Provides an online application, software, a website, or  
60 a system through which a vacation rental located in this state  
61 is advertised or held out to the public as available to rent for  
62 transient occupancy;

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

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

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

72 509.032 Duties.—

73 (7) PREEMPTION AUTHORITY.—

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

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88 ss. 553.80 and 633.206.

89 (b) A local law, ordinance, or regulation may regulate  
90 activities that arise when a property is used as a vacation  
91 rental if the law, ordinance, or regulation applies uniformly to  
92 all residential properties without regard to whether the  
93 property is used as a vacation rental as defined in s.  
94 509.242(1)(c), the property is used as a long-term rental  
95 subject to chapter 83, or the property owner chooses not to rent  
96 the property. However, a local law, ordinance, or regulation may  
97 not prohibit ~~vacation~~ rentals or regulate the duration or  
98 frequency of ~~rental of vacation~~ rentals. The prohibitions set  
99 forth in this paragraph do ~~This paragraph does~~ not apply to any  
100 local law, ordinance, or regulation adopted on or before June 1,  
101 2011, including when such law, ordinance, or regulation is being  
102 amended to be less restrictive with regard to a prohibition or a  
103 duration or frequency regulation.

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

110 (d) The regulation of advertising platforms is preempted to  
111 the state, and advertising platforms shall be regulated under  
112 this chapter.

113 Section 3. Effective January 1, 2022, subsection (3) of  
114 section 509.241, Florida Statutes, is amended to read:

115 509.241 Licenses required; exceptions.—

116 (3) DISPLAY OF LICENSE.—Any license issued by the division

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117 must ~~shall~~ be conspicuously displayed to the public inside in  
118 ~~the office or lobby of the~~ licensed establishment. Public food  
119 service establishments that ~~which~~ offer catering services must  
120 ~~shall~~ display their license number on all advertising for  
121 catering services. The owner or operator of a vacation rental  
122 offered for transient occupancy through an advertising platform  
123 must also display the vacation rental license number and the  
124 applicable Florida sales tax registration and tourist  
125 development tax account numbers under which such taxes must be  
126 paid for each rental of the property as a vacation rental.

127 Section 4. Effective January 1, 2022, section 509.243,  
128 Florida Statutes, is created to read:

129 509.243 Advertising platforms.—

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

132 1. Include in the advertisement the vacation rental license  
133 number and the applicable Florida sales tax registration and  
134 tourist development tax account numbers under which such taxes  
135 must be paid before the advertisement may be listed; and

136 2. Attest to the best of his or her knowledge that the  
137 license number for the vacation rental property and the  
138 applicable tax numbers are current, valid, and accurately stated  
139 in the advertisement.

140 (b) An advertising platform must display the vacation  
141 rental license number and applicable Florida sales tax  
142 registration and tourist development tax numbers. The  
143 advertising platform must verify that the vacation rental  
144 license number provided by the owner or operator is valid and  
145 applies to the subject vacation rental before publishing the

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146 advertisement on its platform and again at the end of each  
147 calendar quarter that the advertisement remains on its platform.

148 (c) The division shall maintain vacation rental license  
149 information in a readily accessible electronic format which is  
150 sufficient to facilitate prompt compliance with the requirements  
151 of this subsection by an advertising platform or a person  
152 placing an advertisement on an advertising platform for  
153 transient rental of a vacation rental.

154 (2) An advertising platform must provide to the division on  
155 a quarterly basis, by file transfer protocol or electronic data  
156 exchange file, a list of all vacation rentals located in this  
157 state which are advertised on its platform, along with the  
158 following information for each vacation rental:

159 (a) The uniform resource locator for the Internet address  
160 of the vacation rental advertisement; and

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

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

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175 issued by the division.

176 (4) If a guest uses a payment system on or through an  
177 advertising platform, as defined in s. 509.013(17), to pay for  
178 the rental of a vacation rental located in this state, the  
179 advertising platform must collect and remit all taxes imposed  
180 under chapters 125 and 212 resulting from the rental. When  
181 calculating taxes imposed under chapters 125 and 212, an  
182 advertising platform may exclude the amount of any fees directly  
183 attributable to the service provided by the advertising  
184 platform. The Department of Revenue may adopt rules to implement  
185 this subsection.

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

200 (6) Advertising platforms must adopt an antidiscrimination  
201 plan to help prevent discrimination among their users and must  
202 inform all users of their services that it is illegal to refuse  
203 accommodation to an individual based on race, creed, color, sex,

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204 pregnancy, physical disability, or national origin pursuant to  
205 s. 509.092.

206 Section 5. The application of this act does not supersede  
207 any current or future declaration or declaration of condominium  
208 adopted pursuant to chapter 718, Florida Statutes, cooperative  
209 document adopted pursuant to chapter 719, Florida Statutes, or  
210 declaration or declaration of covenants adopted pursuant to  
211 chapter 720, Florida Statutes.

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