

By Senator Diaz

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A bill to be entitled

An act relating to vacation rentals; amending s. 509.013, F.S.; defining the term "advertising platform"; amending s. 509.032, F.S.; preempting the regulation of vacation rentals to the state; prohibiting a local law, ordinance, or regulation from allowing or requiring inspections or licensing of public lodging establishments, including vacation rentals, or public food service establishments; authorizing a local law, ordinance, or regulation to regulate certain activities under certain circumstances; providing an exemption; expanding an exemption to allow certain ordinances adopted on or before a certain date to be amended to be less restrictive; preempting the regulation of advertising platforms to the state; amending s. 509.241, F.S.; requiring licenses issued by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to be displayed conspicuously to the public inside the licensed establishment; requiring the owner or operator of certain vacation rentals to also display its vacation rental license number and applicable tax account numbers; creating s. 509.243, F.S.; requiring advertising platforms to require that persons placing advertisements for vacation rentals include certain information in the advertisements; requiring advertising platforms to display and verify such information; requiring the division to maintain certain information in a readily

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

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

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

509.013 Definitions.—As used in this chapter, the term:
(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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ss. 553.80 and 633.206.

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

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

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

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

509.241 Licenses required; exceptions.—

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

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

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

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

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

(3) An advertising platform must remove from public view an advertisement or a listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental 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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pregnancy, physical disability, or national origin pursuant to
s. 509.092.

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

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