

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 effective dates.

41

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

43

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

46 509.013 Definitions.—As used in this chapter, the term:

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

48 (a) Provides an online application, software, website,  
 49 system, or print advertisement through which a transient public  
 50 lodging establishment located in this state is advertised or

51 held out to the public as available to rent for transient  
 52 occupancy;

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

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

60  
 61 The term does not include the multiple listing service or an  
 62 online or print advertisement of a transient public lodging  
 63 establishment by a real estate broker or sales associate  
 64 licensed under chapter 475; however, a real estate broker or  
 65 sales associate licensed under chapter 475 must comply with s.  
 66 509.243(3).

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) Public lodging establishments and public food service  
 72 establishments.—

73 1. Preemption.—The regulation of public lodging  
 74 establishments, including vacation rentals, and public food  
 75 service establishments, including, but not limited to,

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

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

86 a. The Legislature finds that:

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

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

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

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

99 b. Except as provided under this subparagraph, the  
100 regulation of vacation rentals, including inspection and

101 licensing, is expressly preempted to the state.

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

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

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

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

125 Section 3. Effective January 1, 2021, subsection (3) of

126 section 509.241, Florida Statutes, is amended to read:

127 509.241 Licenses required; exceptions.—

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

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

141 509.242 Public lodging establishments; classifications.—

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

146 (c) *Vacation rental.*—A vacation rental is a any unit or  
147 group of units in a condominium or cooperative or in an any  
148 individually or collectively owned single-family, two-family,  
149 three-family, or four-family house or dwelling unit that is also  
150 a transient public lodging establishment but ~~that is~~ not a

151 | timeshare project.

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

154 |       509.243 Advertising platforms.—

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

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

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

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

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

174 |       (a) The uniform resource locator for the Internet address  
175 | of the listing.

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

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

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

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

201 any cost of collection.

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

209       Section 7. Except as otherwise expressly provided in this  
210 act, this act shall take effect upon becoming a law.