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LEGISLATIVE ACTION

Senate

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House

The Committee on Commerce and Tourism (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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 a person who:

(a) Provides an online application, software, website, or
system through which a vacation rental located in this state is

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11 advertised or held out to the public as available to rent for
12 transient occupancy;

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

15 (c) Provides a reservation or payment system that
16 facilitates a transaction for the renting by transient occupancy
17 of a vacation rental and for which the person collects or
18 receives, directly or indirectly, a fee in connection with the
19 reservation or payment service provided for such transaction.

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

22 509.032 Duties.—

23 (7) PREEMPTION AUTHORITY.—

24 (a) The regulation of public lodging establishments,
25 including vacation rentals, and public food service
26 establishments, including, but not limited to, sanitation
27 standards, licensing, inspections, training and testing of
28 personnel, and matters related to the nutritional content and
29 marketing of foods offered in such establishments, is expressly
30 preempted to the state. A local law, ordinance, or regulation,
31 may not allow or require the local inspection or licensing of
32 public lodging establishments, including vacation rentals, or
33 public food service establishments. This paragraph does not
34 preempt the authority of a local government or local enforcement
35 district to conduct inspections of public lodging and public
36 food service establishments for compliance with the Florida
37 Building Code and the Florida Fire Prevention Code, pursuant to
38 ss. 553.80 and 633.206.

39 (b) A local law, ordinance, or regulation may regulate

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40 activities that arise when a property is used as a vacation
41 rental if the law, ordinance, or regulation applies uniformly to
42 all residential properties without regard to whether the
43 property is used as a vacation rental as defined in s. 509.242,
44 the property is used as a long-term rental subject to chapter
45 83, or the property owner chooses not to rent the property.
46 However, a local law, ordinance, or regulation may not prohibit
47 vacation rentals or regulate the duration or frequency of rental
48 of vacation rentals. This paragraph does not apply to any local
49 law, ordinance, or regulation adopted on or before June 1,
50 2011, including when such law, ordinance, or regulation is being
51 amended to be less restrictive with regard to a prohibition, or
52 duration, or frequency regulation.

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

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

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

63 509.241 Licenses required; exceptions.—

64 (3) DISPLAY OF LICENSE.—Any license issued by the division
65 must shall be conspicuously displayed to the public inside in
66 the office or lobby of the licensed establishment. Public food
67 service establishments that which offer catering services must
68 shall display their license number on all advertising for

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69 catering services. The owner or operator of a vacation rental
70 offered for transient occupancy through an advertising platform
71 must also display the vacation rental license number and the
72 applicable Florida sales tax registration and tourist
73 development tax account numbers under which such taxes must be
74 paid for each rental of the property as a vacation rental.

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

77 509.243 Advertising platforms.—

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

80 1. Include in the advertisement the vacation rental license
81 number and the applicable Florida sales tax registration and
82 tourist development tax account numbers under which such taxes
83 must be paid before the advertisement may be listed; and

84 2. Attest to the best of their knowledge that the license
85 number for the vacation rental property and the applicable tax
86 numbers are current, valid, and accurately stated in the
87 advertisement.

88 (b) An advertising platform must display the vacation
89 rental license number and applicable Florida sales tax
90 registration and tourist development tax numbers. The
91 advertising platform must verify that the vacation rental
92 license number provided by the owner or operator is valid and
93 applies to the subject vacation rental before publishing the
94 advertisement on its platform and again at the end of each
95 calendar quarter that the advertisement remains on its platform.

96 (c) The division shall maintain vacation rental license
97 information in a readily accessible electronic format that is

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98 sufficient to facilitate prompt compliance with the requirements
99 of this subsection by an advertising platform or a person
100 placing an advertisement on an advertising platform for
101 transient rental of a vacation rental.

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

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

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

117 (3) An advertising platform must remove from public view an
118 advertisement or listing from its online application, software,
119 website, or system within 15 business days after being notified
120 by the division in writing that the subject advertisement or
121 listing for the rental of a vacation rental located in this
122 state fails to display a valid license number issued by the
123 division.

124 (4) If a guest uses a payment system on or through an
125 advertising platform to pay for the rental of a vacation rental
126 located in this state, the advertising platform shall collect

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127 and remit all taxes imposed under chs. 212 and 125 resulting
128 from the rental. When calculating taxes imposed under chs. 212
129 and 125, an advertising platform may exclude the amount of any
130 fees directly attributable to the service provided by the
131 advertising platform. The Department of Revenue is authorized to
132 adopt rules to implement this subsection.

133 (5) If the division has probable cause to believe that a
134 person not licensed by the division has violated this chapter,
135 or any rule adopted pursuant thereto, the division may issue and
136 deliver to such person a notice to cease and desist from the
137 violation. The issuance of a notice to cease and desist does not
138 constitute agency action for which a hearing under ss. 120.569
139 and 120.57 may be sought. For the purpose of enforcing a cease
140 and desist notice, the division may file a proceeding in the
141 name of the state seeking the issuance of an injunction or a
142 writ of mandamus against any person who violates any provision
143 of the notice. If the department is required to seek enforcement
144 of the notice for a penalty pursuant to s. 120.569, it is
145 entitled to collect its attorney fees and costs, together with
146 any cost of collection.

147 (6) Advertising platforms must adopt an anti-discrimination
148 plan in order to help prevent discrimination among its users and
149 must inform all users of their services that it is illegal to
150 refuse accommodation to an individual based on race, creed,
151 color, sex, pregnancy, physical disability, or national origin,
152 pursuant to s. 509.092.

153 Section 6. The application of this act shall not supersede
154 any current or future declaration or declaration of condominium
155 adopted pursuant to chapter 718, Florida Statutes, cooperative

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156 documents adopted pursuant to chapter 719, Florida Statutes, or
157 declaration of covenants or declaration adopted pursuant to
158 chapter 720, Florida Statutes.

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

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163 ===== T I T L E A M E N D M E N T =====

164 And the title is amended as follows:

165 Delete everything before the enacting clause
166 and insert:

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A bill to be entitled

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An act relating to vacation rentals; amending s.

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509.013, F.S.; defining the term "advertising

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platform"; amending s. 509.032, F.S.; preempting the

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regulation of vacation rentals to the state;

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authorizing a local law, ordinance, or regulation to

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regulate certain activities under certain

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circumstances; prohibiting a local law, ordinance, or

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regulation from allowing or requiring inspections or

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licensing of vacation rentals; expanding an exemption

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to permit certain ordinances adopted on or before June

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1, 2011 to be amended to be less restrictive;

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preempting the regulation of advertising platforms to

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the state; amending s. 509.241, F.S.; requiring

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licenses issued by the Division of Hotels and

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Restaurants of the Department of Business and

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Professional Regulation to be displayed conspicuously

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to the public inside the licensed establishment;

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185 requiring the operator of certain vacation rentals to
186 also display its vacation rental license number and
187 applicable tax account numbers; creating s. 509.243,
188 F.S.; requiring advertising platforms to require that
189 persons placing advertisements for vacation rentals
190 include certain information in the advertisements;
191 providing that the advertising platform is required to
192 verify such information; requiring each advertising
193 platform to quarterly provide the division with
194 certain information regarding vacation rentals in this
195 state listed on the platform; requiring an advertising
196 platform to remove an advertisement or listing under
197 certain conditions and within a specified timeframe;
198 requiring an advertising platform to collect and remit
199 taxes imposed under chs. 212 and 125, F.S., for
200 certain transactions; authorizing the Department of
201 Revenue to adopt rules; requiring an advertising
202 platform to adopt an anti-discrimination plan and to
203 give notice to users of their services; authorizing
204 the division to issue and deliver a notice to cease
205 and desist for certain violations; providing that such
206 notice does not constitute agency action for which a
207 certain hearing may be sought; authorizing the
208 division to file certain proceedings; authorizing the
209 collection of attorney fees and costs under certain
210 circumstances; providing applicability; providing
211 effective dates.

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