

By Senator Diaz

36-00965A-19

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1                   A bill to be entitled  
2           An act relating to private property rights of  
3           homeowners; amending s. 509.032, F.S.; preempting the  
4           regulation of vacation rentals to the state; providing  
5           an exception; requiring a court of law to determine  
6           compliance with specified provisions; amending s.  
7           509.241, F.S.; requiring each person applying for a  
8           vacation rental license to provide the Division of  
9           Hotels and Restaurants of the Department of Business  
10          and Professional Regulation with specified  
11          information; requiring the division to make vacation  
12          rental license information available to the public on  
13          the division's website; providing an effective date.  
14

15 Be It Enacted by the Legislature of the State of Florida:  
16

17           Section 1. Subsection (7) of section 509.032, Florida  
18           Statutes, is amended to read:

19           509.032 Duties.—

20           (7) PREEMPTION AUTHORITY.—

21           (a) Public lodging establishments and public food service  
22           establishments.—The regulation of public lodging establishments  
23           and public food service establishments, including, but not  
24           limited to, sanitation standards, inspections, training and  
25           testing of personnel, and matters related to the nutritional  
26           content and marketing of foods offered in such establishments,  
27           is preempted to the state. This paragraph does not preempt the  
28           authority of a local government or local enforcement district to  
29           conduct inspections of public lodging and public food service

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30 establishments for compliance with the Florida Building Code and  
31 the Florida Fire Prevention Code, pursuant to ss. 553.80 and  
32 633.206.

33 (b) Vacation rentals.—

34 1. The Legislature finds that:

35 a. Property owners who choose to use their property as a  
36 vacation rental have constitutionally protected property rights  
37 and other rights that must be protected, including the right to  
38 use their residential property as a vacation rental;

39 b. Vacation rentals play a significant, unique, and  
40 critical role in Florida's tourism industry, and that role is  
41 different from other types of public lodging establishments;

42 c. There are factors unique to the ownership and operation  
43 of a vacation rental; and

44 d. Vacation rentals are residential in nature, a  
45 residential use and thus permitted in residential neighborhoods.

46 2. Except as provided under this paragraph, the regulation  
47 of vacation rentals, including, but not limited to, inspection,  
48 licensing, and occupancy limits, is expressly preempted to the  
49 state.

50 3. A local law, ordinance, or regulation may regulate  
51 activities that arise when a property is used as a vacation  
52 rental if the law, ordinance, or regulation applies uniformly to  
53 all residential properties without regard to whether the  
54 property is used as a vacation rental as defined in s. 509.242,  
55 the property is used as a long-term rental subject to chapter  
56 83, or the property owner chooses not to rent the property.

57 However, a local law, ordinance, or regulation may not prohibit  
58 ~~vacation~~ rentals, impose occupancy limits, or regulate the

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59 duration or frequency of ~~rental of vacation~~ rentals.

60 4. A local law, ordinance, or regulation may not allow or  
61 require the inspection or licensing of vacation rentals.

62 5. A court of law shall determine if a local law,  
63 ordinance, or regulation complies with this section without  
64 regard to any assertion in the local law, ordinance, or  
65 regulation that it complies. In all actions brought pursuant to  
66 this section, the political subdivision that enacted the local  
67 law, ordinance, or regulation shall establish by clear and  
68 convincing evidence that the local law, ordinance, or regulation  
69 complies with this section ~~This paragraph does not apply to any~~  
70 ~~local law, ordinance, or regulation adopted on or before June 1,~~  
71 ~~2011.~~

72 6.(e) This paragraph ~~(b)~~ does not apply to any local law,  
73 ordinance, or regulation exclusively relating to property  
74 valuation as a criterion for vacation rental if the local law,  
75 ordinance, or regulation is required to be approved by the state  
76 land planning agency pursuant to an area of critical state  
77 concern designation.

78 Section 2. Subsection (2) of section 509.241, Florida  
79 Statutes, is amended to read:

80 509.241 Licenses required; exceptions.—

81 (2) APPLICATION FOR LICENSE.—

82 (a) Each person who plans to open a public lodging  
83 establishment or a public food service establishment shall apply  
84 for and receive a license from the division prior to the  
85 commencement of operation. A condominium association, as defined  
86 in s. 718.103, which does not own any units classified as  
87 vacation rentals or timeshare projects under s. 509.242(1)(c) or

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88 (g) is not required to apply for or receive a public lodging  
89 establishment license.

90 (b) Each person applying for a vacation rental license  
91 shall provide the name, address, telephone number, and email  
92 address of the person the division may contact when a complaint  
93 related to a vacation rental is reported. The division shall  
94 make vacation rental license information, including the contact  
95 person, available to the public on the division's website.

96 Section 3. This act shall take effect July 1, 2019.