

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1011 Vacation Rentals
SPONSOR(S): Fischer
TIED BILLS: **IDEN./SIM. BILLS:** SB 1128

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Workforce Development & Tourism Subcommittee	10 Y, 5 N	Willson	Barry
2) Government Operations & Technology Appropriations Subcommittee	8 Y, 5 N	Helpling	Topp
3) Commerce Committee			

SUMMARY ANALYSIS

The Division of Hotels and Restaurants (Division) in the Department of Business and Professional Regulation (DBPR) licenses and inspects vacation rentals within the state.

A vacation rental is classified as any unit or group of units in a condominium or cooperative or any individually or collectively owned home, not a timeshare project, which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, or advertised to the public as a place regularly rented to guests. The rental of individual rooms within a condominium unit or house is excluded from the licensure and regulation of public lodging establishments by the Division.

Local governments may not prohibit vacation rentals or regulate the duration or frequency of such rentals. Local regulations adopted before June 1, 2011, are not subject to this prohibition.

The bill:

- Defines the term “advertising platform”.
- Requires that users of advertising platforms include certain licensure and tax identification information in a vacation rental listing and provide certain information to the Division on a regular basis.
- Authorizes certain enforcement mechanisms relating to unlicensed activities.
- Preempts the regulation of advertising platforms to the state.
- Expressly preempts the regulation of vacation rentals, including their inspection and licensing, to the state.
- Prohibits local regulations which allow or require the inspection or licensing of vacation rentals.
- Clarifies that the bill does not supersede the statutory authority of condominiums, cooperatives, or homeowners’ associations to govern the use of their properties.
- Requires vacation rental operators to display licensing and tax information under certain circumstances.

The bill does not preempt local regulations affecting vacation rentals if the regulation applies uniformly to all residential properties.

The bill provides 19.00 new positions and \$1.4 million in the first year and \$1.3 million recurring thereafter to DBPR to implement the bill. There may be an indeterminate positive impact for state revenue generated from additional license fees, tourism, sales taxes, and fines. There will be a negative fiscal impact for local governments that collect fees or fines related to the regulation of vacation rentals. See *Fiscal Analysis and Economic Impact Statement*.

Except as otherwise provided, the bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Vacation Rentals

The Division of Hotels and Restaurants (Division) within the Department of Business and Professional Regulation (DBPR) is charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. DBPR licenses vacation rentals within the state and has the power to inspect a licensed vacation rental.¹

Public lodging establishments are classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.²

The term “public lodging establishments” includes transient and nontransient public lodging establishments.³ The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the length of the rentals.

The term “transient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings, which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.⁴

The term “vacation rental” means any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project.⁵

Section 509.013(4)(b)9., F.S., exempts living or sleeping facilities that do not fit within the classification of a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment. Currently, the classification for “vacation rental” only applies to situations where the entire unit or dwelling is offered for rent; therefore the rental of individual rooms within a condominium unit or house is excluded from the licensure and regulation of public lodging establishments by the Division.⁶

Licensure

The Division is authorized to issue vacation rental licenses as follows:

- **Single license**: issued to an individual person or entity, but not a licensed agent, and may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity.
- **Group license**: issued to a licensed agent to cover all units within a building or group of buildings in a single complex and only covers units held out to the public as a place regularly rented to guests.

¹ S. 509.241, F.S.

² S. 509.242(1), F.S.

³ S. 509.013(4)(a), F.S.

⁴ S. 509.013(4)(a)1., F.S.

⁵ S. 509.242(1)(c), F.S.

⁶ DBPR, Agency Analysis of 2020 Senate Bill 1128, p.2 (Jan. 7, 2020). *See also* 18-06 Fla. Op.Att’y Gen. (2018).

- **Collective license:** issued to a licensed agent who represents a collective group of houses or units found on separate locations not to exceed 75 houses per license.⁷

Applicants for licensure must submit the appropriate application and required fee to the Division. The license fees are based on the number of rental units in the establishment. A current license must be conspicuously displayed in the office or lobby of the licensed establishment.⁸ If no office or lobby is present on the premises of the licensed establishment, the license must be readily available for inspection upon request.⁹

As of July 1, 2019, there were 47,337 public lodging establishments licensed by the Division. These licenses are distributed as follows:

- Hotels: 2,056 licenses;
- Motels: 2,513 licenses;
- Non-transient apartments: 18,363 licenses;
- Transient apartments: 913 licenses;
- Bed and Breakfast Inns: 260 licenses;
- Vacation rental condominiums: 7,563 licenses;
- Vacation rental dwellings: 15,650 licenses; and
- Vacation rental timeshare projects: 19 licenses.¹⁰

License Fees

The Division provides the following fee schedule relating to vacation rentals:¹¹

- Vacation rentals/collective license.

BASIC FEE	PER UNIT FEE	HEP FEE ¹²	TOTAL FEE
\$150	\$10	\$10	VARIABLES

- Vacation rentals/group and single license.

NUMBER OF UNITS	BASIC FEE	INCREMENTAL UNIT FEE	HEP FEE	TOTAL FEE
SINGLE UNIT	\$150	\$10	\$10	\$170
2-25	\$150	\$20	\$10	\$180
26-50	\$150	\$35	\$10	\$195
51-100	\$150	\$50	\$10	\$210
101-200	\$150	\$75	\$10	\$235
201-300	\$150	\$105	\$10	\$265
301-400	\$150	\$135	\$10	\$295
401-500	\$150	\$160	\$10	\$320
OVER 500	\$150	\$190	\$10	\$350

Applicants for initial licensure are required to pay the full license fee if the application is made during, or more than six months before, the annual renewal period. A half-year fee is authorized if such application is made 6 months or less before the renewal period.

A \$50 application fee is required when making the initial application or an application for change of ownership.

⁷ S. 509.241, F.S.

⁸ S. 509.241(3), F.S.

⁹ R. 61C-1.002(1), F.A.C.

¹⁰ DBPR, *Division of Hotels and Restaurants Annual Report for FY 2018-2019*,

http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2018_19.pdf (last visited Jan. 13, 2020).

¹¹ R. 61C-1.008, F.A.C.

¹² S. 509.302, F.S., establishes the Hospitality Education Program. All public lodging establishments and all public food service establishments licensed under ch. 509, F.S., are required to pay an annual fee of no more than \$10, which shall be included in the annual license fee and used for the sole purpose of funding the Hospitality Education Program.

Renewal fees are based upon the number of units under the license when the license was either issued or last renewed, whichever is most recent.

A \$50 delinquency fee is required to renew a delinquent license filed with the Division after the expiration date.

Sanitation and Safety

Current law requires each public lodging establishment to meet requirements and standards relating to sanitation and safety.¹³ These requirements and standards apply to the following:

- Water, plumbing and waste;
- Public bathrooms (vacation rentals are exempt from this requirement);
- Towels;
- Glassware, tableware, and utensils (vacation rentals are exempt from federal and state standards but must sanitize with household cleaning supplies and provide notice of such in guest rooms);
- Kitchens;
- Ice making machines;
- Locking devices;
- Vermin control;
- Storage and labeling of toxic items;
- Structural components, attachments, and fixtures; and
- Attics, basements, boiler rooms, meter rooms, laundry rooms, and storage rooms.

Ventilation and Fire Safety

Each bedroom in a public lodging establishment must be properly ventilated with windows or mechanical ventilation.¹⁴ Specialized smoke detectors for the deaf and hearing-impaired must be made available upon request by guests in transient public lodging establishments without charge.¹⁵

In addition, smoke alarms must be installed in every living unit¹⁶ and automatic fire sprinklers may be required in public lodging establishments if the rental units are located within a building with three or more stories or greater than 75 feet in height.¹⁷ All local fire authority requirements must be met. Electrical wiring must be in good repair.

Conduct on Premises

The operator of a public lodging establishment is authorized to refuse accommodations or service to undesirable guests.¹⁸ Subject to proper notification, an operator may remove guests who:

- Illegally possess or deal controlled substances;
- Are intoxicated;
- Are profane, lewd, or brawling;
- Disturb the peace and comfort of other guests;
- Injure the reputation, dignity, or standing of the establishment;
- Fail to pay rent on time;
- Fail to check out on time;
- Are generally detrimental to the establishment.¹⁹

¹³ See generally s. 509.221, F.S., and R. 61C-1&3, F.A.C.

¹⁴ S. 509.221(3), F.S.

¹⁵ R. 61C-1.004, F.A.C.

¹⁶ S. 509.215(1)(b), F.S.

¹⁷ S. 509.215(1), F.S.

¹⁸ S. 509.142, F.S.

¹⁹ S. 509.141(1), F.S.

The admission to, or the removal from, a public lodging establishment cannot be based upon race, creed, color, sex, physical disability, or national origin.²⁰

Violations for remaining or attempting to remain in an establishment after being requested to leave are a second-degree misdemeanor, punishable as provided in ss. 775.082 or 775.083, F.S.²¹

In addition, an operator is authorized to take a person into custody and detain that person for disorderly conduct that creates a threat to the life or safety of the person or others.²²

Inspections

The Division is required to inspect all public lodging establishments as often as necessary for the enforcement of the law and protection of the public health, safety and welfare. Each licensed public lodging establishment must be inspected at least biannually (twice per year), except for transient and non-transient apartments, which must be inspected at least annually.²³

Vacation rentals are not subject to this requirement, but must be available for inspection upon a request by the Division. For inspection purposes, the licensee or operator must, upon request, meet the inspector at the site of a specified establishment with keys to the licensed house or unit being inspected.²⁴

Additionally, an applicant for a vacation rental license is required to submit with the license application a signed certificate evidencing the inspection of all balconies, platforms, stairways, railings, and railings from a person competent to conduct such inspections.²⁵

The Division also may inspect a vacation rental in response to a consumer complaint related to sanitation issues or unlicensed activity. In Fiscal Year 2018-2019, the Division received 228 consumer complaints related to vacation rentals, of which 14 were confirmed as a violation by the Division.²⁶

Registry

The licensee or operator must notify the Division of all houses or units represented in a license application. Any time a change in the address or number of houses or units occurs, the licensee or operator must notify the Division at least 60 days prior to the expiration date of the license. In addition, a list of the included houses or units must be maintained in a written form for inspection by request.²⁷

Each operator of a transient public lodging establishment must maintain a register showing the dates each rental unit was occupied by a guest as well as the rates charged to the occupants. This register must be maintained in chronological order and available for inspection by the Division at any time. Operators must maintain two years of register data.²⁸

Violations

Any public lodging establishment found to be in violation of ch. 509, F.S., or rules adopted by the Division, may be subject to administrative actions including the following penalties:

²⁰ S. 509.141(1), F.S.

²¹ S. 509.141(3), F.S.

²² S. 509.143(1), F.S.

²³ See generally s. 509.032, F.S., Rule 61C-1.002, F.A.C.

²⁴ *Id.*

²⁵ See ss. 509.211(3) and 509.2112, F.S., and form *DBPR HR-7020, Division of Hotels and Restaurants Certificate of Balcony Inspection*, available at:

https://www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1030&clientCode=2007&XACT_DEFN_ID=7694 (last visited Jan. 13, 2020).

²⁶ *DBPR, Division of Hotels and Restaurants Annual Report for FY 2018-2019*, at 21.

²⁷ *Id.*

²⁸ S. 509.101(2), F.S.

- Fines not to exceed \$1,000 per offense; and
- Suspension, revocation, or refusal of a license.²⁹

Licensees with a single license are responsible for all violations of ch. 509, F.S., or rules adopted by the Division.³⁰ The authorized agent of the licensee is responsible for a violation for licensees holding a collective or group license if the dwelling or unit was listed under the agent or as otherwise reflected in records filed with the Division.³¹

Preemption Authority

Prior to June 1, 2011, local governments regulated vacation rentals (also referred to as resort dwellings in many local ordinances). Local governments could restrict or prohibit vacation rentals up to, and including, banning the use of residential properties as vacation rentals.

Legislation in 2011 preempted the authority to regulate vacation rentals to the state.³² The preemption prevented local governments from enacting any new law, ordinance, or regulation that:

- restricted the use of vacation rentals;
- prohibited vacation rentals; or
- regulated vacation rentals based solely on their classification, use, or occupancy.

The 2011 preemption did not apply to local regulations enacted on or before June 1, 2011.

Prior to the 2011 preemption, several municipalities had created regulations specifically relating to vacation rentals.³³ As an example, one ordinance prohibited owners of single-family residences in residential zones from renting their properties for durations of less than 30 days, although it grandfathered certain vacation rentals that had already obtained all applicable state and local licenses and permits.³⁴ Subsequent to the enactment of the 2011 legislation, the vacation rental market experienced growth.³⁵

In 2014, the Legislature narrowed the scope of the preemption to preempt only those local regulations which prohibit vacation rentals or regulate the duration or frequency of vacation rentals.³⁶

²⁹ S. 509.261(1), F.S.

³⁰ *Id.*

³¹ *Id.*

³² Ch. 2011-119, Laws of Fla., codified in s. 509.032(7), F.S.

³³ See City of Venice Code of Ordinances, ch. 86, art. V, div. 9, s. 86-151. See also Monroe County Code, No. 004-1997 (2013); Bal Harbour Village Code of Ordinances, s. 21-363.

³⁴ City of Venice Code of Ordinances, ch. 86, art. V, div. 9, s. 86-151. See also *City of Venice v. Gwynn*, 76 So. 3d 401, 403 (Fla. 2nd DCA 2011).

³⁵ See Melissa Maynard, *As Short-Terms Rentals Boom, Regulation an Issue*, THE PEW CHARITABLE TRUST (June, 6, 2013), <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2013/06/06/as-shortterms-rentals-boom-regulation-an-issue>.

³⁶ Ch. 2014-71, Laws of Fla., codified in s. 509.032(7)(b), F.S.

Recent Activity

Homeowners found to be in conflict with ordinances regulating vacation rentals have taken legal action against their respective local governments through the Bert J. Harris, Jr., Private Property Rights Protection Act.³⁷ The act provides a cause of action for private property owners whose real property has been inordinately burdened by a specific action of a governmental entity that may not rise to the level of a “taking” under the State or Federal Constitutions. The inordinate burden can apply to either an existing use of real property or a vested right to a specific use.³⁸

In November 2015, the City of Anna Maria passed and adopted Ordinance No. 15-807. This ordinance provides a general framework for the regulation of vacation rentals, including maximum occupancy requirements. According to the city’s website, since April 2016, approximately 113 Bert Harris Act claims citing Ordinance No. 15-807 amounting to approximately \$38 million in damages have been filed.³⁹

In March 2016, Miami Beach passed an ordinance making the fine for a first violation for a resident caught renting short-term \$20,000. Each subsequent fine increases by \$20,000 and can be as high as \$100,000. Vacation/short-term rentals that are permitted in certain zoning districts of Miami Beach are required to provide and conspicuously display the city-issued business tax receipt number and the resort tax certificate number in every advertisement or listing of any type in connection with the rental of the residential property.⁴⁰

In June 2018, it was reported that Miami Beach had issued \$12.1 million in fines, only \$174,000 of which had been paid. Some owners were reported to have accumulated up to \$60,000 in fines.⁴¹

Condominiums, Cooperatives, and Homeowners’ Associations

A condominium is a form of ownership of real property created pursuant to ch. 718, F.S., comprised of units which may be owned by one or more persons but have an undivided share of access to common facilities.⁴² A condominium is created by recording a declaration in the public records of the county in which the condominium will be located.⁴³ A declaration governs the relationships among condominium unit owners and the condominium association. All unit owners are members of the condominium association. The condominium association is overseen by an elected board of directors, commonly referred to as a “board of administration.” The association enacts condominium association bylaws governing the administration of the association. The declaration as originally recorded or as amended may include covenants and restrictions concerning the use, occupancy, and transfer of the units in the association.

A cooperative is a form of property ownership created pursuant to ch. 719, F.S. The real property is owned by the cooperative association, and individual units are leased to the residents who own shares in the cooperative association.⁴⁴ The lease payment amount is the pro-rata share of the operational expenses of the cooperative. Cooperatives operate similarly to condominiums and the laws regulating cooperatives are similar in many ways. A cooperative is created using “cooperative documents” which include articles of incorporation of the association, bylaws, and the ground lease or other underlying lease, if any. The documents may include restrictions, which affect the use of the property.

³⁷ Kathy Prucnell, *2 more Holmes Beach Bert Harris claims proceed to courthouse*, THE ISLANDER (Feb. 20, 2018), <https://www.islander.org/2018/02/2-more-holmes-beach-bert-harris-claims-proceed-to-courthouse/>.

³⁸ S. 70.001, F.S.

³⁹ CITY OF ANNA MARIA, *Bert J. Harris, Jr., Private Property Rights Protection Act Claim Filings*, http://www.cityofannamaria.com/residents/bert_harris_claim.php (last visited Mar. 16, 2019).

⁴⁰ See Miami Beach City Code, Sec. 142-1111 and 142-905(b).

⁴¹ Chabeli Herrera, *Miami Beach has the country's highest short-term rental fines. It just got sued*, MIAMI HERALD (June 28, 2018), <https://www.miamiherald.com/news/business/article213954174.html>.

⁴² S. 718.103(11), F.S.

⁴³ S. 718.104(2), F.S.

⁴⁴ S. 719.103(2)(26), F.S.

A homeowners' association (HOA) is an association of residential property owners where voting membership consists of parcel owners, membership is a mandatory condition of parcel ownership, and which may impose assessments that, if unpaid, can become a lien on the parcel.⁴⁵ Chapter 720, F.S., only regulates HOAs whose covenants and restrictions include mandatory assessments. Like a condominium or cooperative, an HOA is administered by an elected board of directors. The powers and duties of an HOA includes those provided in ch. 720, F.S., and contained in the governing documents of the association. The governing documents include the recorded covenants and restrictions, bylaws, articles of incorporation, and duly adopted amendments to those documents. The documents may include restrictive covenants governing the use and occupancy of properties.

Based on these laws, condominium, cooperative, and homeowners' associations have enacted provisions that govern the ability of the property owners to rent their properties. Certain condominium, cooperative, and homeowners' associations have taken actions such as prohibiting owners from renting their properties, restricting the duration of the rental term, or limiting the frequency owners are allowed to rent their properties.

Effect of the Bill

Preemption

The bill amends s. 509.032(7), F.S., relating to the preemption of vacation rentals by the state.

The bill specifies that the regulation of vacation rentals and advertising platforms is preempted to the state.

The bill does not preempt local regulations affecting vacation rentals if the regulation applies uniformly to all residential properties, regardless of whether:

- the property is used as a vacation rental,
- the property is used as a long-term rental subject to chapter 83, or
- the property owner chooses not to rent the property.

The bill prohibits local regulations that allow or require the inspection or licensing of vacation rentals. However, vacation rentals will remain exempt from state inspection requirements.

The bill also provides for the following legislative findings: that vacation rentals are residential in nature, that residential property owners have a constitutionally protected right to use their property as a vacation rental, and that vacation rentals are different from other types of public lodging and play a unique and critical role in the state's tourism industry.

Advertising Platforms

Definition

The bill creates s. 509.013(17), F.S., defining the term "advertising platform" as a person who:

- Provides an online application, software, website, system, or print advertisement through which a transient public lodging establishment located in this state is advertised or held out to the public as available to rent for transient occupancy;
- Provides or maintains a marketplace for the renting by transient occupancy of a vacation rental; or
- Provides a reservation or payment system that facilitates a transaction for the renting by transient occupancy of a vacation rental and for which the person collects or receives, directly or indirectly, a fee in connection with the reservation or payment service provided for such transaction.

⁴⁵ S. 720.301(9), F.S.

The bill exempts a multiple listing service or an online or print advertisement for the rental of a transient public lodging establishment by a licensed real estate broker or sales associate from the definition of “advertising platform”. The bill specifies, however, that a licensed real estate broker or sales associate must comply with s. 509.243(3), F.S., relating to the removal of listings that fail to display valid license numbers.

Platform Requirements

Effective January 1, 2021, the bill creates s. 509.243, F.S., requiring an advertising platform must:

- Require that a person who places an advertisement for a vacation rental include the license number, applicable Florida sales tax registration, and tourist development tax account numbers, and attest to the best of their knowledge that this information is correct.
- Provide to the Division on a quarterly basis, by file transfer protocol or electronic data exchange file, a list of all vacation rental listings in this state on its platform specified information, including the Internet address of the listing, the vacation rental license number, and applicable tax numbers.
- Remove from public view an advertisement or 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 issued by the Division.

If the Division has probable cause to believe that a person not licensed by the Division has violated ch. 509, F.S., the bill authorizes the Division to issue a notice to cease and desist and to enforce such a notice by injunction or a writ of mandamus. If DBPR is required to seek enforcement of the notice for a penalty pursuant to s. 120.569, F.S.,⁴⁶ it is entitled to collect its attorney fees and costs, together with any cost of collection.

Vacation Rental Operators

Effective January 1, 2021, the bill amends s. 509.241, F.S., to require the operator of a vacation rental offered for transient occupancy through an advertising platform to display the vacation rental license number and the applicable Florida sales tax registration and tourist development tax account numbers under which such taxes must be paid for each rental of the property as a vacation rental.

Vacation Rental Licensure

The bill amends s. 509.242 F.S., removing “any” from the definition of a vacation rental. This modification would add single bedrooms or groups of bedrooms in a house to the definition of a vacation rental. This modification would also include hosted stays, in which the unit owner is renting an unoccupied portion of an occupied dwelling. These modifications may require previously exempt individuals to obtain a license to continue to rent these specified units.⁴⁷

Condominiums, Cooperatives, and Homeowners’ Associations

The bill provides that it is not the Legislature’s intent to supersede any current or future declaration or declaration of condominium adopted pursuant to ch. 718, F.S., cooperative documents adopted pursuant to ch. 719, F.S., or declaration of covenants or declaration adopted pursuant to ch. 720, F.S.

Except as otherwise provided, the bill takes effect upon becoming law.

⁴⁶ Section 120.569, F.S., provides the administrative procedures for resolution of agency decisions which affect substantial interests before the Division of Administrative Hearings.

⁴⁷ DBPR, Agency Analysis of 2020 Senate Bill 1128, p. 3 (Jan. 29, 2020).

B. SECTION DIRECTORY:

- Section 1:** Amends s. 509.013, F.S., defining the term "advertising platform".
- Section 2:** Amends s. 509.032, F.S., preempting the regulation of vacation rentals to the state; providing legislative findings; authorizing a local law, ordinance, or regulation to regulate certain activities under certain circumstances; prohibiting a local law, ordinance, or regulation from allowing or requiring inspections or licensing of vacation rentals; preempting the regulation of advertising platforms to the state.
- Section 3:** Amends s. 509.241, F.S., requiring licenses issued by the Division to be displayed conspicuously to the public inside the licensed establishment; and requiring the operator of certain vacation rentals to also display its vacation rental license number and applicable tax account numbers.
- Section 4:** Amends s. 509.242, F.S., revising the criteria for a public lodging establishment to be classified as a vacation rental.
- Section 5:** Creates s. 509.243, F.S., requiring advertising platforms to require that persons placing advertisements for vacation rentals include certain information in the advertisements; providing that the advertising platform is not required to verify such information; requiring each advertising platform to quarterly provide the Division with certain information regarding vacation rentals in this state listed on the platform; requiring an advertising platform to remove an advertisement or listing under certain conditions and within a specified timeframe; 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 a certain hearing may be sought; authorizing the Division to file certain proceedings; and authorizing the collection of attorney fees and costs under certain circumstances.
- Section 6:** Provides for applicability.
- Section 7:** Provides positions and appropriations.
- Section 8:** Provides for effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There may be an indeterminate increase in revenues due to additional license fees, tourism and sales taxes, and fines.

2. Expenditures:

The bill requires advertising platforms to list specific information relating to tax rentals and send the information to DBPR, but does not require the platforms to verify the information. To verify the information is correct, DBPR will need to audit the uniform resource location for internet addresses, vacation license numbers, Florida sales tax registration numbers, and tourist development tax numbers. DBPR will also need to coordinate with the 67 county tax collectors to verify taxing

information is correct. Once the information is verified, DBPR will be able to send and enforce removal notices for those vacation rentals not in compliance.⁴⁸

The bill modifies the definition of vacation rental, which may significantly increase the number of individuals required to acquire a license. In addition, vacation rental operators will be required to display additional information including the rental's license in all units and the license number in all advertisements. The additional requirements and licenses may result in additional complaints from local jurisdictions, tax collectors, vacation rentals guests, license holders, and concerned homeowners.⁴⁹

The bill provides 19.00 new positions and \$1.4 million in the first year and \$1.3 million recurring thereafter, from the Hotel and Restaurant Trust Fund, to DBPR to implement the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Preempting local governments from regulating vacation rentals will prevent a local government from imposing and collecting fees and fines relating to regulation and enforcement, which will have an indeterminate negative fiscal impact on local revenues, depending on each local government's current practice of vacation rental regulation and enforcement.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will provide a more predictable and uniform regulatory framework for vacation rentals in Florida. However, certain operators who offer hosted stays or individual room(s) within a larger dwelling or unit will now be subject to regulation by the Division, including certain licensure and fee requirements.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

⁴⁸ DBPR, Agency Analysis of 2020 Senate Bill 1128, p. 7-8 (Jan. 29, 2020).

⁴⁹ DBPR, Agency Analysis of 2020 Senate Bill 1128, p. 4 (Jan. 29, 2020).

Lines 111-113: “This sub-subparagraph ~~paragraph~~ does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.” It is not clear what effect, if any, this grandfathering clause will have if it is limited to sub-subparagraph 509.032(7)(a)2.c., F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2020, the Government Operations & Technology Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute provides 19.00 positions and an appropriation of \$1.4 million to DBPR to implement the bill.

This analysis is drafted to the committee substitute as passed by the Government Operations & Technology Appropriations Subcommittee.