

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 280

INTRODUCER: Fiscal Policy Committee and Senator DiCeglie

SUBJECT: Vacation Rentals

DATE: January 19, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Oxamendi</u>	<u>Yeatman</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 280 revises the regulation of vacation rentals. A vacation rental is a unit in a condominium or cooperative, or a single, two, three, or four family house that is rented to guests more than three times a year for periods of less than 30 days or one calendar month, whichever is shorter, or held out as regularly rented to guests. Vacation rentals are licensed by the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR). Current law does not allow local laws, ordinances, or regulations that prohibit vacation rentals or to regulate the duration or frequency of the rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

The bill permits “grandfathered” local laws, ordinances, or regulations adopted on or before June 1, 2011, to be amended to be less restrictive or to comply with local registration requirements. Additionally, a local government that had such a “grandfathered” regulation in effect on June 1, 2011, is authorized by the bill to adopt a new, less restrictive ordinance. The bill does not affect vacation rental ordinances in jurisdictions located in an area of critical state concern. The bill provides that a local law, ordinance, or regulation may restrict the maximum occupancy for rented residential properties if the restriction applies uniformly without regard to whether the residential property is used as a vacation rental.

The bill also preempts the regulation of advertising platforms to the state. An advertising platform is a person, which may be an individual or a corporation, who electronically advertises

a vacation rental to rent for transient occupancy, maintains a marketplace, and a reservation or payment system.

Under the bill, a local government may require vacation rentals to be registered. The bill allows local governments to charge a reasonable fee for registration and to inspect a vacation rental after registration to verify compliance with the Florida Building Code and the Florida Fire Prevention Code.

The bill establishes limits for a local government registration program, including requiring a vacation rental owner to provide proof of state licensure, submit identifying information, obtain any required tax registrations, pay all recorded municipal or county code liens, designate a responsible person who must be available 24 hours a day, seven days a week, to respond to complaints and emergencies, and to state the maximum occupancy for the vacation rental in compliance with the Florida Fire Prevention Code.

The bill permits a local government to:

- Impose a fine on a vacation rental operator of up to \$500 for violations of the local registration requirements, and to file and foreclose on a lien based on the fine if the property is not subject to homestead protections against foreclosure.
- Suspend a registration for violations of an ordinance that does not apply solely to vacation rentals and the violations occur on and are related to the vacation rental property, including suspensions of up to:
 - 30 days based on five or more violations on five separate days during a 60-day period;
 - 60 days based on one or more violations on five separate days during a 30-day period; or
 - 90 days based on one or more violations after two prior suspensions.

The bill also:

- Requires that local governments give the vacation rental operator 15 days to cure a violation before issuing a fine;
- Provides for the payment of attorney fees, costs, and damages to the prevailing party when a vacation rental operator appeals a denial, suspension, or revocation of a vacation rental registration; and
- Allows local governments to fine a vacation rental operator for failure to provide the local vacation rental registration number to the Division of Hotels and Restaurants (division).

The bill also authorizes a local government to revoke or refuse to renew a registration if:

- A vacation rental registration has been suspended three times;
- There is an unsatisfied recorded municipal or county lien, provided the vacation rental owner is given at least 60 days before termination of the registration to satisfy the lien; and
- The vacation rental premises and owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

The bill authorizes the division to revoke, refuse to issue or renew, or suspend a vacation rental license for a period of not more than 30 days if:

- Operation of the vacation rental violates a condominium, cooperative, or homeowners' association lease or property restriction as determined by a final order or judgment;

- The local registration is suspended or revoked; or
- The premises or its owner is the subject of an order or judgment directing the termination of the premises' use as a vacation rental.

Effective January 1, 2025, the bill authorizes the division to issue temporary licenses to permit the operation of a vacation rental while the license application is pending. It also requires the division to assign a unique identifier for each individual vacation rental dwelling or unit.

The bill requires the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to include the property's vacation rental license number with the associated unique identifier issued by the division and, if applicable, the local registration number on the vacation rental's advertisement, and attest that, to the best of their knowledge, those numbers are current, valid, and accurate. The vacation rental property owner or operator must display the local registration and licensure information inside the vacation rental property.

The bill requires an advertising platform to display the vacation rental license number with the associated unique identifier and, if applicable, the local registration number of each property that advertises on its platform. Effective July 1, 2026, an advertising platform must:

- Verify the validity of the vacation rental's license number with the unique identifier and local registration number, if applicable, before it publishes the advertisement;
- Not advertise or license a vacation rental without a valid license number with a unique identifier and, if applicable, the local registration number;
- Remove from public view any advertisement or listing that fails to display a valid vacation rental license number with a unique identifier and, if applicable, the local registration number; and
- Notify the division within 15 days after any advertisement or listing fails to display a valid license number with a unique identifier and, if applicable, local registration number.

To facilitate the required verification of vacation rental licensure and registration, the division must create and maintain a vacation rental license information system. Additionally, the division's vacation rental information system must permit:

- Local governments to notify the division of a termination, failure to renew, or period of suspension of a local registration;
- Local governments to verify the license and local registration status of a vacation rental; and
- The registered user to subscribe to receive notification of changes to the license or registration of a vacation rental.

The bill requires advertising platforms to collect and remit any taxes imposed under chs. 125, 205, and 212, F.S., that result from payment for the rental of a vacation rental property on its platform. The bill allows platforms to exclude service fees from the taxable amount if the platforms do not own, operate, or manage the vacation rental. It allows the division to take enforcement action for noncompliance.

The bill provides that this act will not supersede any current or former governing document for a condominium, cooperative, or homeowners' association.

The bill provides an appropriation. The bill has a fiscal impact. See Section V. Fiscal Impact Statement.

The Revenue Estimating Conference has not determined the fiscal impact of this bill.

Except as otherwise expressly provided in the bill, the bill takes effect July 1, 2024.

II. Present Situation:

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR) is the state agency charged with enforcing the provisions of ch. 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

The term “public lodging establishments” includes transient and non-transient public lodging establishments.¹ The principal differences between transient and non-transient public lodging establishments are the number of times that the establishments are rented in a calendar year and the duration of the rentals.

A “transient public lodging establishment” is defined in s. 509.013(4)(a)1., F.S., as:

...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 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. (emphasis added)

A “non-transient public lodging establishment” is defined in s. 509.013(4)(a)2., F.S., as:

...any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests for periods of at least 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month. (emphasis added)

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of “public lodging establishment”:

- Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
- Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.;

¹ Section 509.013(4)(a), F.S.

- Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
- Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or one calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than one calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;
- Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008 - 381.00895, F.S.;
- Any establishment inspected by the Department of Health and regulated by ch. 513 F.S.;
- Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public;
- Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement; and
- Any rooming house, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, non-transient apartment, bed and breakfast inn, or transient apartment under s. 509.242, F.S.

A public lodging establishment is classified as a hotel, motel, vacation rental, non-transient apartment, transient apartment, bed and breakfast inn, or timeshare project if the establishment satisfies specified criteria.²

A "vacation rental" is defined in s. 509.242(1)(c), F.S., as:

...any unit or group of units in a condominium, cooperative, or timeshare plan 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 is not a timeshare project.

Section 509.013(2), F.S., defines the term "operator" to mean the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or public food service establishment.

² Section 509.242(1), F.S.

The DBPR licenses vacation rentals as condominiums, dwellings, or timeshare projects.³ The division may issue a vacation rental license for “a single-family house, a townhouse, or a unit or group of units in a duplex, triplex, quad plex, or other dwelling unit that has four or less units collectively.”⁴ The division does not license or regulate the rental of individual rooms within a dwelling unit based on the rooming house and boardinghouse exclusion from the definition of public lodging establishment in s. 509.013(4)(b)9., F.S.⁵

The 63,690 public lodging establishment licenses issued by the division are distributed as follows:⁶

- Hotels – 2,382 licenses;
- Motels – 2,353 licenses;
- Non-transient apartments – 18,480 licenses;
- Transient apartments – 936 licenses;
- Bed and Breakfast Inns – 268 licenses;
- Vacation rental condominiums – 13,434 licenses;
- Vacation rental dwellings – 31, 703 licenses; and
- Vacation rental timeshare projects – 48 licenses.

Inspections of Vacation Rentals

The division must inspect each licensed public lodging establishment at least biannually, but must inspect transient and non-transient apartments at least annually. However, the division is not required to inspect vacation rentals, but vacation rentals must be available for inspection upon a request to the division.⁷ The division conducts inspections of vacation rentals in response to a consumer complaint. In Fiscal Year 2022-2023, the division received 356 consumer complaints regarding vacation rentals. In response to the complaints, the division’s inspection confirmed a violation for 45 of the complaints.⁸

The division’s inspection of vacation rentals includes matters of safety (for example, fire hazards, smoke detectors, and boiler safety), sanitation (for example, safe water sources, bedding, and vermin control), consumer protection (for example, unethical business practices, compliance with the Florida Clean Air Act, and maintenance of a guest register), and other

³ Fla. Admin. Code R. 61C-1.002(4)(a)1.

⁴ The division further classifies a vacation rental license as a single, group, or collective license. *See* Fla. Admin. Code R. 61C-1.002(4)(a)1. A single license 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. A group license is a license issued by the division to a licensed agent to cover all units within a building or group of buildings in a single complex. A collective license is a license issued by the division to a licensed agent who represents a collective group of houses or units found on separate locations not to exceed 75 houses or units per license.

⁵ *See* s. 509.242(1)(c), F.S., defining the term “vacation rental.”

⁶ Department of Business and Professional Regulation, Division of Hotels and Restaurants Annual Report for FY 2022-2023 at page 8, available at http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2022_23.pdf (last visited Dec. 4, 2023). The total number of vacation rental licenses for each classification includes single licenses and group and collective licenses that cover multiple condominium units, dwellings, and timeshare projects under a single license.

⁷ Section 509.032(2)(a), F.S.

⁸ *Supra* at note 6 on page 21.

general safety and regulatory matters.⁹ The division must notify the local fire safety authority or the State Fire Marshal of any readily observable violation of a rule adopted under ch. 633, F.S.,¹⁰ which relates to a public lodging establishment.¹¹ The rules of the State Fire Marshall provide fire safety standards for transient public lodging establishments, including occupancy limits for one and two family dwellings.¹²

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 railways, from a person competent to conduct such inspections.¹³

Preemption

Section 509.032(7)(a), F.S., provides that “the regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state.”

Current law does not preempt the authority of a local government or a local enforcement district to conduct inspections of public lodging establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206, F.S.¹⁴

Section 509.032(7)(b), F.S., does not allow local laws, ordinances, or regulations that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

Section 509.032(7)(c), F.S., provides that the prohibition in s. 509.032(7)(b), F.S., does not apply to local laws, ordinances, or regulations exclusively relating to property valuation as a criterion for vacation rental if the law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.¹⁵

⁹ See ss. 509.211 and 509.221, F.S., for the safety and sanitary regulations, respectively. See also Fla. Admin. Code R. 61C-1.002; *Lodging Inspection Report, DBPR Form HR 5022-014*, which details the safety and sanitation matters addressed in the course of an inspection. A copy of the Lodging Inspection Report is available at: <https://www.flrules.org/Gateway/reference.asp?No=Ref-07062> (last visited Dec. 4, 2023).

¹⁰ Chapter 633, F.S., relates to fire prevention and control, including the duties of the State Fire Marshal and the adoption of the Florida Fire Prevention Code.

¹¹ Section 509.032(2)(d), F.S.

¹² See Fla. Admin. Code R. 69A-43.018, relating to one and two family dwellings, recreational vehicles and mobile homes licensed as public lodging establishments.

¹³ 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:

http://www.myfloridalicense.com/dbpr/hr/forms/documents/application_packet_for_vacation_rental_license.pdf (last visited Dec. 4, 2023).

¹⁴ Section 509.032(7)(a), F.S.

¹⁵ See s. 380.031(18), F.S., which provides that the state land planning agency is the Department of Economic Opportunity. See also s. 380.05, F.S., relating to the designation of areas of critical state concern. Chapter 2023-173, Laws of Fla., changed the name of the Department of Economic Opportunity to the Department of Commerce and the name change will be reflected in the 2024 Florida Statutes.

Legislative History

In 2011, the Legislature preempted certain vacation rental regulation to the state. The preemption prevented local governments from enacting any 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.¹⁶

This legislation grandfathered any local law, ordinance, or regulation that was enacted by a local government on or before June 1, 2011.¹⁷

In 2014, the Legislature revised the preemption to its current form with an effective date of July 1, 2014.¹⁸ Chapter 2014-71, Laws of Fla., amended s. 509.032(7)(b), F.S., and repealed the portions of the preemption of local laws, ordinances, and regulations which prohibited “restrict[ing] the use of vacation rentals” and which prohibited regulating vacation rentals “based solely on their classification, use, or occupancy.”¹⁹

Attorney General Opinions

The office of the Attorney General issued an Informal Legal Opinion on October 22, 2013, regarding whether Flagler County could intercede and stop vacation rental operations in private homes that were zoned, prior to June 1, 2011, for single-family residential use.²⁰ According to the opinion, “due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their neighborhood.” Flagler County had no regulation governing vacation rentals before the grandfather date of June 1, 2011, established in s. 509.032(7)(b), F.S. The Attorney General concluded that the county’s local zoning ordinance for single-family homes that predated June 1, 2011, did not restrict the rental of such property as a vacation rental and that the zoning ordinances could not now be interpreted to restrict vacation rentals.

The Attorney General also issued an opinion on November 13, 2014, to the City of Wilton Manors, concluding that s. 509.032(7)(b), F.S., does not permit the city to regulate the location of vacation rentals through zoning, and the city may not prohibit vacation rentals that fail to comply with the registration and licensing requirements in s. 509.241, F.S., which requires public lodging establishments to obtain a license from the division.²¹

In addition, the Attorney General issued an advisory opinion on October 4, 2016, addressing whether a municipality could limit the spacing and concentration of vacation rentals through a

¹⁶ Chapter 2011-119, Laws of Fla.

¹⁷ *Id.*

¹⁸ Chapter 2014-71, Laws of Fla. (codified in s. 509.032(7)(b), F.S.).

¹⁹ *Id.*

²⁰ Florida Attorney General, *Informal Legal Opinion to Mr. Albert Hadeed, Flagler County Attorney, regarding Vacation Rental Operation-Local Ordinances*, Oct. 22, 2013, available at <https://www.myfloridalegal.com/ag-opinions/vacation-rental-operations-local-ordinances> (last visited Dec. 4, 2023).

²¹ Op. Att’y Gen. Fla. 2014-09, *Vacation Rentals - Municipalities - Land Use* (November 12, 2014), available at <https://www.myfloridalegal.com/ag-opinions/vacation-rentals-municipalities-land-use> (last visited Dec. 4, 2023).

proposed zoning ordinance.²² The Attorney General concluded that the preemption in s. 509.032, F.S., allows local governments some regulation of vacation rentals, but prevents local governments from prohibiting vacation rentals. Consequently, the Attorney General noted that a municipality may not impose spacing or proportional regulations that would have the effect of preventing eligible housing from being used as a vacation rental.²³

The Attorney General also opined that amending an ordinance that was enacted prior to June 1, 2011 will not invalidate the grandfather protection for the parts of the ordinance that are reenacted.²⁴ However, the new provisions would be preempted by state law if an ordinance was revised in a manner that would regulate the duration or frequency of rental of vacation rentals, even when the new regulation would be considered “less restrictive” than the prior local law.

Public Lodging Non-Discrimination Law

Section 509.092, F.S., prohibits an operator of a public lodging establishment from denying service or offering lesser quality accommodations to a person based upon his or her race, creed, color, sex, pregnancy, physical disability, or national origin. An aggrieved person may file a complaint pursuant to s. 760.11, F.S., of the Florida Civil Rights Act. Such complaints are mediated, investigated, and determined by the Florida Commission on Human Relations.²⁵

III. Effect of Proposed Changes:

Preemptions

The bill amends s. 509.032(7), F.S., to preempt the regulation of advertising platforms to the state. The bill also amends s. 509.032(7), F.S., to preempt the licensing of vacation rentals to the state.

The bill does not affect the “grandfather” provision in s. 509.032(7)(b), F.S., which does not allow local laws, ordinances, or regulations prohibiting vacation rentals or regulating the duration or frequency of rental of vacation rentals. Under the bill, a “grandfathered” local law, ordinance, or regulation adopted on or before June 1, 2011, may be amended to be less restrictive or to comply with local registration requirements. Additionally, the bill permits a local government that had a “grandfathered” regulation in effect on June 1, 2011, to pass a new, less restrictive ordinance that would be “grandfathered” as well.

The bill also exempts local laws, ordinances, and regulations that are “grandfathered” under s. 509.032(7)(b), F.S., from the local registration requirements in s. 509.032(8), F.S.

²² Op. Att’y Gen. Fla. 2016-12, *Municipalities - Vacation Rentals – Preemption – Zoning* (Oct. 4, 2016), available at <https://www.myfloridalegal.com/ag-opinions/municipalities-vacation-rentals-preemption-zoning> (last visited Dec. 4, 2023).

²³ *Id.*

²⁴ Op. Att’y Gen. Fla. 2019-07, *Vacation rentals, municipalities, grandfather provisions* (August 16, 2019) available at <https://www.myfloridalegal.com/ag-opinions/vacation-rentals-municipalities-grandfather-provision> (last visited Dec. 4, 2023).

²⁵ See Florida Commission on Human Relations, *Public Accommodations*, available at <https://fchr.myflorida.com/public-accommodations> (last visited Dec. 4, 2023).

Definition of “Advertising Platform”

The bill creates s. 509.013(17), F.S., to define the term “advertising platform.” Under the bill, an advertising platform is a person²⁶ who:

- Provides an online application, software, website, or system through which a vacation rental 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; and
- 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.

Tax Collection and Reporting Requirements

The bill also amends s. 212.03(3), F.S., to require advertising platforms to collect and report taxes imposed under ch. 212, F.S. The bill:

- Provides that the taxes an advertising platform must collect and remit are based on the total rental amount charged by the owner or operator for use of the vacation rental.
- Excludes service fees from the calculation of taxes remitted by an advertising platform to the Department of Revenue (DOR), unless the advertising platform owns, is related to, operates, or manages the vacation rental.
- Requires the DOR and local government jurisdictions to allow advertising platforms to register, collect, and remit such taxes.

The bill authorizes the DOR to adopt emergency rules, which are effective for six months and may be renewed until permanent rules are adopted. This emergency rulemaking authority expires on January 1, 2026.

The bill creates s. 509.243(4), F.S., to require advertising platforms to collect and remit taxes due under ss. 125.0104,²⁷ 125.0108,²⁸ 205.044,²⁹ 212.03,³⁰ 212.0305,³¹ and 212.055, F.S.,³² resulting from the reservation of a vacation rental property and payment therefor through an advertising platform.

²⁶ Section 1.01(3), F.S., defines the term “person” to include “individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.”

²⁷ Section 125.0104, F.S., relates to the local option tourist development tax.

²⁸ Section 125.0108, F.S., relates to the tourist impact tax in areas within a county designated as an area of critical state concern.

²⁹ Section 205.044, F.S., relates to the merchant business tax measured by gross receipts.

³⁰ Section 212.03, F.S., relates to the transient rentals tax.

³¹ Section 212.0305, F.S., relates to convention development taxes.

³² Section 212.055, F.S., relates to discretionary sales taxes.

Local Registration of Vacation Rentals

The bill creates s. 509.032(8), F.S., to permit local governments to require vacation rentals to register under a local registration program.

The bill provides that a local government is not prohibited from adopting a law, ordinance, or regulation if it is uniformly applied without regard to whether the residential property is used as a vacation rental.

Application Process

The bill allows local governments to charge a reasonable fee³³ for the local registration and a reasonable fee to inspect a vacation rental after registration to verify compliance with the Florida Building Code and the Florida Fire Prevention Code.

The bill establishes limits for a local government registration program. A local registration program may only require an owner or operator of a vacation rental to:

- Submit identifying information;
- Provide proof of a vacation rental license with the unique identifier issued by the division;
- Obtain all required tax registrations, receipts, or certificates issued by the Department of Revenue, a county, or a municipal government;
- Update required information on a continuing basis to be current;
- Designate and maintain a responsible person who is capable of responding to complaints and emergencies by telephone at a provided telephone number 24 hour a day, 7 days a week, and receiving legal notices of complaints on behalf of the vacation rental operator;
- State the maximum occupancy for the vacation rental in compliance with the Florida Fire Prevention Code;³⁴ and
- Pay in full all recorded municipal or county code liens.

Additionally, the bill requires local governments to review a registration application for completeness and accept the registration or issue a written notice specifying deficient areas within 15 days of receipt of an application. The vacation rental owner or operator may agree to an extension of this time period. Such notice may be provided by mail or electronically.

If a local government denies an application, the written notice of denial may be sent by United States mail or electronically. The notice must state with particularity the factual reasons for the denial and the applicable portions of an ordinance, rule, statute, or other legal authority for the

³³ Sections 125.66 and 166.041, F.S., requires counties and municipalities, respectively, before enactment of a proposed ordinance to prepare a business impact estimate that includes an identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible, and an estimate of the municipality's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs.

³⁴ Fla. Admin. Code R. 69A-43.018, relating to the uniform fire safety standards for transient public lodging establishments, timeshare plans, and timeshare unit facilities, provides that the maximum occupancy load permitted for one and two family dwellings and mobile homes licensed as public lodging establishments is at 150 square feet gross floor area per person.

denial. A local government cannot deny a registration application if the applicant cures the identified deficiency.

Upon the acceptance of a registration application, the local government must assign a unique registration number to the vacation rental or other indicia of registration and provide such registration number or other indicia of registration to the owner or operator of the vacation rental in writing or electronically.

If a local government fails to accept or deny the registrations within the provided timeframes, the application is deemed accepted.

Within five days of receipt of the vacation rental registration number, the vacation rental operator must provide the vacation rental registration to the division.

Enforcement and Remedies

Fines Imposed by Local Governments

Under the bill, a local government may fine a vacation rental operator up to \$500 for failing to continue to meet the registration requirements, failing to provide the local registration number to the division, and failing to register the vacation rental with the local government.³⁵ Local governments must give the vacation rental operator 15 days to cure a violation before issuing a fine. The fine must be recorded in the public records. The bill permits the local governments to file a lien on the real property on which the violation occurred. The local governments may foreclose on a lien based on the fine to recover a money judgment in the amount of the lien if the lien remain unpaid for three or more months after it is filed and the property is not subject to homestead protection against foreclosure.³⁶

Registration Suspensions by Local Governments

The bill authorizes a local government to suspend a registration for material violations of an ordinance that does not apply solely to vacation rentals, and the violations occur on and are related to the vacation rental property. The local law, ordinance, or regulation may not solely apply to vacation rentals, and the violation must be directly related to the owner's vacation rental premises. The finding of a material violation must be made by the code enforcement board or a special magistrate.

³⁵ Section 162.09(2), F.S., permits code enforcement boards or special magistrates to impose fines not to exceed \$250 per day for a first violation and not to exceed \$500 per day for a repeat violation. However, if the code enforcement board or special magistrate finds there is irreparable or irreversible harm caused by the code violation, the fine may not exceed \$1,000 per day per violation for a first violation, \$5,000 per day per violation for a repeat violation, and up to \$15,000 per violation. Moreover, a county or a municipality with a population equal to or greater than 50,000 may adopt, by a vote of at least a majority plus one of the entire governing body of the county or municipality, an ordinance that gives code enforcement boards or special magistrates, or both, authority to impose fines not exceed to \$1,000 per day per violation for a first violation, \$5,000 per day per violation for a repeat violation, and up to \$15,000 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature.

³⁶ Section 162.09(3), F.S., provides a comparable authority to local governments to file liens and foreclose on liens based on unpaid fines.

Upon a finding of a material violation, the code enforcement board or special magistrate may recommend to the local government that the operation of the vacation rental be suspended up to:

- 30 days based on one or more violations on five separate days during a 60-day period;
- 60 days based on one or more violations on five separate days during a 30-day period; and
- 90 days based on one or more violations after two prior suspensions.

The bill requires local governments to give notice of a suspension to the operator of a vacation rental within five days after the suspension. The notice must include the start date of the suspension, which must be at least 21 days after the notice is sent to the operator and the division.

Beginning January 1, 2026, a local government must use the vacation rental information system described in s. 509.244, F.S., which is created by the bill, to provide the notice of suspension of a vacation rental registration to the division.

Registration Revocations by Local Governments

Under the bill, a local government may revoke or refuse to renew a vacation rental registration if:

- The owner's registration has been suspended three times;
- There is an unsatisfied recorded municipal lien or county lien on the real property of the vacation rental, provided local governments give a vacation rental owner at least 60 days to satisfy a recorded municipal or county code lien before terminating a local registration because of the unsatisfied lien; or
- The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

The bill uses interchangeably the terms "revocation" and "termination."

The bill also requires local governments to give notice of a termination or nonrenewal to the operator of a vacation rental within five days after the termination or nonrenewal. The notice must include the start date of the termination or nonrenewal, which must be at least 21 days after the notice is sent to the operator and the division. Beginning January 1, 2026, a local government must use the vacation rental information system described in s. 509.244, F.S., which is created by the bill, to provide the notice of termination or nonrenewal of a vacation rental registration to the division.

Appeals

Under the bill, a vacation rental owner may appeal a denial, suspension, termination, or nonrenewal of a vacation rental registration to the circuit court. The appeal must be filed within 30 days after the issuance of the denial, suspension, or termination. The bill provides that the court may assess and award reasonable attorney fees and costs and damages to the prevailing party in the appeal.³⁷

³⁷ Section 162.11, F.S., provides for the appeal of a final administrative order of a local government enforcement board to the circuit court. This provision does not provide for the awarding of attorney fees and costs to the prevailing party.

Regulation of Vacation Rentals by the Division

Licensing

Effective January 1, 2025, the bill amends ss. 509.241(2) and (3), F.S., relating to the license application process for vacation rentals, to:

- Authorize the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR) upon receiving an application for a vacation rental license to grant a temporary license to permit the operation of the vacation rental while the license application is pending and to post the information required under s. 509.243(1)(c), F.S.
 - The temporary license automatically expires upon final agency action regarding the license application.
- Require any license issued by the division to be displayed conspicuously to the public inside the licensed establishment, instead of “in the office or lobby.”
- Require the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to display the vacation rental local registration number, if applicable.
- Require the licensee or licensed agent managing a vacation rental to submit to the division, through the division’s online system, any applicable local vacation rental registration number within five days after registration.
- Require the division to assign a unique identifier on each vacation rental license it issues which identifies each individual vacation rental dwelling or unit.

Suspensions and Revocations of Vacation Rental Licensees

The bill amends s. 509.261, F.S., to authorize the division to revoke, refuse to issue or renew, or suspend for a period of not more than 30 days a vacation rental license when:

- The operation of the subject premises violates the terms of an applicable lease or property restriction, including any property restriction adopted pursuant to chs. 718, 719, or 720, F.S., as determined by a final order of a court or an arbitrator’s written decision;³⁸
- The registration of the vacation rental is suspended or revoked by a local government as provided in s. 509.032(8); or
- The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises’ use as a vacation rental.

When revoking, suspending, or refusing to renew a vacation rental license, the division must specify the license number with the associated unique identifier of the vacation rental dwelling or unit that has been suspended, revoked or not renewed. The division must also input such status into the vacation rental information system described in s. 509.244, F.S.

The bill requires that any suspension of a vacation rental license based on the suspension of a local registration must run concurrently with the local registration suspension.

³⁸ Chapters 718, 719, or 720, F.S., relate to the regulation and governance of condominium, cooperative, and homeowners’ associations, respectively.

Requirements for Advertising Platforms

Effective January 1, 2025, the bill creates s. 509.243, F.S., to provide requirements for an advertising platform, including tax collection and remittance requirements. Under the bill, an advertising platform must:

- Require that a person who places an advertisement for the rental of a vacation rental to:
 - Include the vacation rental license number with the associated unique identifier and, if applicable, the local registration number; and
 - Attest to the best of the person's knowledge that the license number and the local registration number, if applicable, for the vacation rental property are current and valid and that all related information is accurately stated in the advertisement.
- Display the vacation rental license number with the associated unique identifier and, if applicable, the local registration number.
- Adopt an anti-discrimination plan and inform its users of the public lodging discrimination prohibition found in s. 509.092, F.S.

Effective January 1, 2026, the advertising platforms shall:

- Use the vacation rental information system described in s. 509.244, F.S., to verify the vacation rental license number with the associated unique identifier and, if applicable, the local registration number.
- Not advertise or list a vacation rental that fails to provide a valid state license number with the unique identifier and, if applicable, a local registration number as indicated on the division's vacation rental information system;
- Remove from public view an advertisement or listing from its online application, software, website, or system within 15 business days after notification that a vacation rental license or, if applicable, a local registration:
 - Has been suspended, revoked, or not renewed; or
 - Fails to display a valid license number with the associated unique identifier and, if applicable, the local registration number; and
- Notify the division within 15 days after any advertisement or listing fails to display a valid license number with a unique identifier and, if applicable, local registration number.

The bill requires advertising platforms to collect and remit taxes due under ss. 125.0104,³⁹ 125.0108,⁴⁰ 205.044,⁴¹ 212.03,⁴² 212.0305,⁴³ and 212.055, F.S.,⁴⁴ resulting from the reservation of a vacation rental property and payment therefor through an advertising platform.

³⁹ Section 125.0104, F.S., relates to the local option tourist development tax.

⁴⁰ Section 125.0108, F.S., relates to the tourist impact tax in areas within a county designated as an area of critical state concern.

⁴¹ Section 205.044, F.S., relates to the merchant business tax measured by gross receipts.

⁴² Section 212.03, F.S., relates to the transient rentals tax.

⁴³ Section 212.0305, F.S., relates to convention development taxes.

⁴⁴ Section 212.055, F.S., relates to discretionary sales taxes.

The bill also:

- Provides processes for the division to issue a cease and desist order to any person who violates ch. 509, F.S.
- Authorizes the division to seek an injunction or a writ of mandamus to enforce a cease and desist order.
- Provides that, if the division is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, F.S., it is entitled to collect its attorney fees and costs, together with any cost of collection.
- Authorizes the division to fine an advertising platform an amount not to exceed \$1,000 per offense for a violation of the provisions in the bill or rules of the division.
- Provides that the advertising platform requirements in the bill do not create a private right of action against advertising platforms.

Vacation Rental Information System

The bill creates s. 509.244, F.S., to require the division to create and maintain, by July 1, 2025, a vacation rental information system readily accessible through an application program interface to permit:

- Licensees and advertising platforms to promptly comply with ch. 509, F.S., relating in pertinent part to public lodging establishments;
- Vacation rental advertisers to verify the vacation rental license number with the associated unique identifier, the applicable local registration number, and the license or registration status of the vacation rental;
- Local governments to notify the division of a termination, failure to renew, or period of suspension of a local registration;
- Local governments to verify the license and local registration status of a vacation rental; and
- The registered user to subscribe to receive notification of changes to the license or registration of a vacation rental.

Community Associations

The bill provides that the application of vacation rental provisions created by the bill do not 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 for a homeowners' association adopted pursuant to ch. 720, F.S.

Appropriation

The bill provides an appropriation for the 2024-2025 fiscal year, of \$327,170 in recurring funds and \$53,645 in nonrecurring funds from the Hotel and Restaurant Trust Fund and \$645,202 in recurring funds and \$3,295,884 in nonrecurring funds from the Administrative Trust Fund are appropriated to the Department of Business and Professional Regulation, and nine full-time equivalent positions with a total associated salary rate of 513,417 are authorized, for the purposes of implementing the provisions in the bill.

Effective Date

Except as otherwise expressly provided in the bill, the bill takes effect July 1, 2024.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, Section 19 of the Florida Constitution requires a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”

Article VII, Section 19 of the Florida Constitution also requires that a tax or fee raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

The bill does not impose or authorize a state tax or fee. The bill provides that a local government may not require a registration fee of more than \$200. Under the bill, a local government is not required to charge a registration fee.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference has not determined the fiscal impact of this bill.

B. Private Sector Impact:

Indeterminate. Vacation rental owners may incur local registration costs of up to \$150 and registration renewal fees of up to \$50 if the local government in which the vacation

rental is located adopts an ordinance, law, or regulation consistent with the provisions of this bill.

C. Government Sector Impact:

The bill provides an appropriation for the 2024-2025 fiscal year, of \$327,170 in recurring funds and \$53,645 in nonrecurring funds from the Hotel and Restaurant Trust Fund and \$645,202 in recurring funds and \$3,295,884 in nonrecurring funds from the Administrative Trust Fund are appropriated to the Department of Business and Professional Regulation, and nine full-time equivalent positions with a total associated salary rate of 513,417 are authorized, for the purposes of implementing the provisions in the bill.

The Department of Business and Professional Regulation (department) anticipates an indeterminate increase in licensing revenue, but does not know the number of rental advertisements that are not licensed but require a license. It also anticipates an indeterminate increase in fines due to noncompliance.⁴⁵

The division states that the total number of vacation rental complaints it has received has increased more than 42 percent since Fiscal Year (FY) 2018-2019 with a record high of 1,391 complaints in in FY 2019-2020. Consequently, it anticipates an increased number of based on the requirements of the bill, including a large, indeterminate influx of complaints from local jurisdictions, tax collectors, vacation rental guests, license holders, and concerned homeowners.⁴⁶

The department anticipates a total fiscal impact of \$4,318,901 (\$972,371 recurring and \$3,346,529 nonrecurring). The fiscal impact is predominantly due to the creation of the vacation rental information system required under the bill. The anticipated cost for implementing the new system is \$3.25 million, with annual recurring license and maintenance costs of \$150,000, which may increase over time based on the consumer product index or a negotiated percentage. The department would also need an additional nine full time employees.⁴⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴⁵ See Department of Business and Professional Regulation, 2023 Agency Legislative Bill Analysis for SB 280, pp. 7 and 8 (Dec. 1, 2023) (on file with the Senate Fiscal Policy Committee).

⁴⁶ *Id.* at 9.

⁴⁷ *Id.* at 8.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 159.27, 212.03, 212.08, 316.1955, 404.056, 477.0135, 509.013, 509.032, 509.221, 509.241, 509.261, 553.5041, 559.955, 561.20, 705.17, 705.185, 717.1355, and 877.24.

This bill creates the following sections of the Florida Statutes: 509.243 and 509.244.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Fiscal Policy on January 18, 2024:**

The committee substitute makes following substantive revisions to the bill:

- Revises the fee for a local registration from \$150 per unit to a reasonable fee per unit;
- Increases the fine a local government may impose from \$300 to \$500 per violation;
- Allows a vacation rental operator a 15-day period to cure before a local government may issue a fine for a violation;
- Revised the requirement to state the maximum occupancy in a vacation rental application to include compliance with the Florida Fire Prevention Code;
- Provides for the payment of attorney fees, costs, and damages to the prevailing party when a vacation rental operator appeals a denial, suspension, or revocation of a vacation rental registration;
- Allows local governments to fine a vacation rental operator for failure to provide the local vacation rental license number to the Division of Hotels and Restaurants (division);
- Authorizes the division to suspend a vacation rental license for the same period as any local suspension of the vacation rental registration;
- Prohibits advertising platforms from advertising or listing a vacation rental that fails to provide a valid state license number with the unique identifier and, if applicable, a local registration number as indicated on the division's vacation rental information system;
- Requires advertising platforms to notify the division within 15 days after any advertisement or listing fails to display a valid license number with a unique identifier and local registration number, if applicable; and
- Provides an appropriation.

B. Amendments:

None.