A bill to be entitled
An act relating to vacation rentals; amending s. 509.013, F.S.; defining the term “advertising platform”; amending 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; amending s. 509.241, F.S.; requiring licenses issued by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to be displayed conspicuously to the public inside the licensed establishment; requiring the operator of certain vacation rentals to also display its vacation rental license number and applicable tax account numbers; amending s. 509.242, F.S.; revising the criteria for a public lodging establishment to be classified as a vacation rental; creating 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; authorizing the collection of attorney fees and costs under certain circumstances; providing applicability; providing effective dates.

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

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

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

(17) “Advertising platform” means a person who:

(a) Provides an online application, software, website, 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;

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

(c) 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.

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

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

509.032 Duties.—
(7) PREEMPTION AUTHORITY.—
(a) Public lodging establishments and public food service establishments.—
1. Preemption.—The regulation of public lodging establishments, including vacation rentals, 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. This subparagraph paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.
2. (b) Vacation rentals.—
a. The Legislature finds that:
(I) Property owners who choose to use their property as a
vacation rental have constitutionally protected property rights and other rights that must be protected, including the right to use their residential property as a vacation rental;

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

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

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

b. Except as provided under this subparagraph, the regulation of vacation rentals, including inspection and licensing, is expressly preempted to the state.

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

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

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

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

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

509.241 Licenses required; exceptions.—

(3) DISPLAY OF LICENSE.—Any license issued by the division must shall be conspicuously displayed to the public inside in the office or lobby of the licensed establishment. Public food service establishments that which offer catering services must shall display their license number on all advertising for catering services. The operator of a vacation rental offered for transient occupancy through an advertising platform must also 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.

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

509.242 Public lodging establishments; classifications.—

(1) A public lodging establishment shall be classified as a hotel, motel, nontransient apartment, transient apartment, bed and breakfast inn, timeshare project, or vacation rental if the establishment satisfies the following criteria:
(c) Vacation rental.—A vacation rental is any unit or group of units in a condominium or cooperative or in 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.

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

509.243 Advertising platforms.—

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

1. Include in the advertisement 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 before the advertisement may be listed; and

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

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

(2) An advertising platform must 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 and all of the following information for each listing:

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

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

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

(3) An advertising platform must 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.

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

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

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