

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Ricardo J. Dopico, City Attorney 

DATE: May 1, 2024

SUBJECT: **DISCUSS THE NEW SHORT-TERM RENTAL LAW PASSED IN NEW YORK CITY, KNOWN AS “LOCAL LAW 18”**

(Memorandum updated to include a summary of Florida SB 280, pertaining to short-term rentals, which was adopted during the 2024 State Legislative Session)

HISTORY

On September 13, 2023, at the request of Commissioner Alex Fernandez, the City Commission referred the subject discussion item (C4 Q) to the Land Use and Sustainability Committee (LUSC). On March 19, 2024, the LUSC discussed this item and requested that the City Attorney’s Office provide an update at the May 1, 2024 meeting relating to CS/SB 280, pertaining to Vacation Rentals, which was approved by the Florida legislature during the 2024 State Legislative Session but has not yet been signed into law.

The City’s authority to regulate short-term rentals is constrained by existing Florida law, which preempts the City from prohibiting or regulating the duration or frequency of vacation rentals (except for ordinances adopted on or before June 1, 2011). See Sec. 509.032(7)(b), Florida Statutes. This Memorandum is focused on Florida SB 280, which further preempts several provisions in the City Code by establishing exclusive requirements on the registration of vacation rentals.

BACKGROUND AND SUMMARY OF SB 280

SB 280 (the “Bill”) was approved by the Florida House of Representatives on March 6, 2024 and approved by the Senate the very next day. Once the Bill is presented to Governor Ron DeSantis, the Governor will have 15 days to sign or veto the Bill. The Bill has an effective date of January 1, 2025.

The Bill primarily amends Chapter 509 of the Florida Statutes, on vacation rentals and vacation rental advertising platforms. The Bill preempts the licensing of vacation rentals and regulation of advertising platforms to the State’s Division of Hotels and Restaurants (the “Division”). To facilitate compliance with the requirements of the Bill, the Bill requires the Division to create and maintain a vacation rental information system.

To the extent that the Bill allows for local registration programs, the Bill requires that local governments notify the Division of any enforcement action taken pursuant to the Bill (including suspensions and revocations) through the new vacation rental information system.

A “vacation rental” is defined under State law as 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.

An “advertising platform” is defined under State law as 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.

ANALYSIS

Licensing of Vacation Rentals

The Bill almost entirely preempts the City’s ordinances on the registration and inspection of vacation rentals. The Bill only exempts local vacation rental registration ordinances that were originally enacted before January 1, 2016. The City’s registration/inspection requirements were adopted in 2018 and are therefore not exempt from the Bill.

The Bill leaves intact a 2011 statute which preempts the City from prohibiting or regulating the duration or frequency of vacation rentals (except for ordinances adopted on or before June 1, 2011).

Consistent with this Bill’s preemption, licensing authority for vacation rentals rests with the Division. A local government may implement a local vacation rental registration program, but the program may only require the operator of a vacation rental to do the following:

1. Submit identifying information about the owner and operator of the vacation rental;
2. Provide proof of a division-issued vacation rental license;
3. Obtain all required tax registrations, receipts, or certificates issued by the Department of Revenue, a county, or a municipal government;
4. Update required information on a continuing basis;
5. Pay in full all recorded municipal or county code liens;
6. Designate and maintain a responsible person to respond to complaints and emergencies by telephone at a provided telephone number 24 hours a day, 7 days a week; and
7. State the maximum occupancy for the vacation rental which does not exceed either two persons per bedroom, plus an additional two persons in one common area; or more than two persons per bedroom if there is at least 50 square feet per person, plus an additional two persons in one common area, whichever is greater. **Note: Miami Beach City Code Section 102-386 establishes the maximum occupancy for short-term rentals at a maximum of two (2) persons per bedroom (excluding children under 2 years of age). If signed into law, the Bill would preempt the stricter requirement in the City Code.**

A local government may charge a reasonable fee for processing vacation rental registrations and for conducting inspections for compliance with the Florida Building Code and Florida Fire Prevention Code. Additionally, the Bill outlines specific procedures that local governments must follow when suspending or revoking vacation rentals.

If the Bill is signed into law, several provisions in Section 102-386 of the City Code would be preempted. The City would have authority to enforce the 7 above requirements, but must conform the City's enforcement provisions with the suspension/revocation procedure set forth in the Bill.

Vacation Rental Advertising Platforms

The Bill entirely preempts the City's ordinances on vacation rental advertising platforms. Section 509.032(7)(e) is amended to read "[t]he regulation of advertising platforms is preempted to the state."

The Bill requires advertising platforms to make use of the State's vacation rental information system, to meet the State's requirements. Advertising platforms are required to display the vacation rental license number, along with its unique identifier, and if applicable, the local registration number for each property advertised on their platform. Commencing on July 1, 2026, platforms must remove any advertisement or listing within 15 business days after being notified that the license or local registration has been suspended, revoked, or not renewed, or if it fails to display a valid vacation rental license number or local registration number.

Additionally, these platforms must quarterly provide to the Division (via the new system) a list of all vacation rentals advertised in Florida, including the URL for each advertisement, along with the vacation rental license number and, if applicable, the local registration number.

Failure to comply with these requirements may result in fines imposed by the Division, not exceeding \$1,000 per offense.

If the Bill is signed into law, advertising platforms would be regulated exclusively by the State, and any local ordinances would be entirely preempted on these matters.

CONCLUSION

If SB 280 is signed into law by the Governor, a number of the City's requirements on the registration and licensing of short-term rentals would be preempted.