Florida TaxWatch

THE IMPACT OF UNLICENSED VACATION RENTALS ON FLORIDA'S ECONOMY

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Dear Fellow Taxpayer,

Vacation rentals are a key component of Florida's tourism-driven economy. Like many other businesses, the operators of short-term vacation rentals are required to obtain a license from the Department of Business and Professional Regulation (DBPR). Although illegal, the practice of operating an unlicensed short-term vacation rental has become all too common. When left unaddressed, unlicensed vacation rentals risk the wellbeing of renters; create a considerable cost advantage over legitimately operated and licensed public lodgings; and fraudulently withhold tax dollars, increasing the cost burden on dutiful, taxpaying businesses and residents.

Florida TaxWatch undertakes this independent analysis to demonstrate the considerable cost advantage enjoyed by the operators of unlicensed short-term vacation rentals, and the need for a greater level of accountability and transparency to make sure all vacation rental operators are paying their fair share of required taxes and fees. We look forward to discussing our findings during the upcoming 2024 legislative session and beyond.

Sincerely,

Dominic M. Calabro

Dominic M. Calabro
President & Chief Executive Officer

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Key Findings

In November 2023, an average day had an estimated minimum of 25,457 unlicensed vacation rentals with available listings, which is 19 percent of all available listings for that month.

- Vacation rentals are often operated seasonally. When considering all active listings—vacation rental properties that have operated during the year and expected to book in future dates—Florida had an estimated minimum of 49,280 unlicensed vacation rental properties.
- Vacation rental data is collected from major hosting platforms, but an unknown number of vacation rentals operate without use of hosting platforms. A study from the University of Central Florida suggested 27 percent of vacation rental bookings do not occur on a major hosting platform, all of which would not be accounted for in this estimate.

Unlicensed vacation rentals have less transparency, complicating local and state governments' ability to hold them accountable to safety requirements and tax obligations.

- Unlicensed vacation rentals fail to pay registration and renewal fees to the state, creating a cost advantage that undercuts the pricing of licensed public lodging establishments. The cost advantage is exacerbated if the unlicensed vacation rental operator fails to collect and remit taxes or files to a homestead exemption, to which they would not be eligible.
- Unlicensed vacation rentals can threaten the wellbeing and safety of short-term renters and neighbors by avoiding required safety precautions, such as a certificate of balcony inspection, fire code compliance, and human trafficking training.

Tax evasion by unlicensed vacation rentals worsens the tax burden on dutiful, taxpaying residents and businesses.

- Florida TaxWatch used data from AllTheRooms and the Florida Department of Business and Professional Regulation to estimate the tax dollars lost for a single day of unlicensed vacation rental activity across the state. Every data point is based on nightly averages for November 2023.
- The loss of registration costs, which are only required once per year, would be between $1.8 million and $6.9 million. If the unlicensed vacation rentals continued to operate in the years to follow, the state would see a loss of licensing fees between $1.2 million and $5.5 million.
- Collectively, local communities can lose up to $32,000 in local option transient taxes within a single day.
- If the unlicensed vacation rentals filed for a homestead exemption, to which—in the absence of permanent residency—they would not be entitled, up to $21.3 million in property taxes could be lost to fraud.

Local and state governments across the country are seeking ways to increase the transparency and accountability of vacation rentals.

- Governments can partner with specialized data companies to identify the location of unlicensed vacation rentals, which helps officials coordinate education campaigns and enforce compliance measures.
- Some cities require hosting platforms to include registration numbers on advertisements, limiting the ability of unlicensed vacation rentals to participate in the market.
- State and local governments can enter voluntary tax collection agreements with major hosting platforms. Although this creates a safeguard against tax evasion, some communities worry that the agreements limit government's ability to collect back-taxes and conduct comprehensive audits.
- The State of Virginia updated its tax structure to accommodate the needs of the vacation rental industry, and its collaboration with stakeholders can serve as an effective model.

Recommendations

As the popularity of vacation rentals continues to grow, the state needs to develop policies that authorize the enforcement of current law and demand transparency and accountability from vacation rentals. In recent years, a vacation rental bill was filed nearly every legislative session. Often, the bills do not make it to the Governor's desk. As legislation—inevitably—is drafted again this year, Florida TaxWatch recommends the following:

Establish a source of data.

The state should consider collecting data from hosting platforms or subscribing to existing software that tracks the activity of vacation rentals. In doing so, they would have access to addresses that could be compared to DBPR's license database, creating the ability to identify licensing gaps.

Impose a requirement to post registration numbers on hosting platforms.

Posted registration numbers ensure unlicensed vacation rentals are not hidden in plain sight. The state legislature should consider how to plan for a transition in a way that limits disruption to current vacation rental activity; for example, the state may consider authorizing a temporary license until the license application is approved.

Design a uniform way for hosting platforms to collect and remit local and state taxes, monitored by regular audits.

An incredible amount of tax dollars can be saved if hosting platforms collect and remit both local and state taxes. Due to differences among local tax structures, the state will need to design a uniform way that limits the burden on hosting platforms. With this shift in responsibility, the state will need to take precautions to ensure that the hosting platforms are dutifully delivering the proper dollars.

Involve stakeholders.

Invite DBPR, tax collectors, major hosting platforms, and vacation rental operators to work groups to determine what challenges may be presented when implementing new regulations or designing new tax structures required to better ensure compliance and accountability.

Introduction

With a state economy that is heavily reliant on tourism, Florida communities require ample public lodging to welcome visitors. Since the 1950s, vacation rental properties have played an important part in providing public lodging in the state. The growth of online marketplaces over the past decade has drastically changed the dynamics of the industry, presenting new opportunities as well as challenges.

Online platforms, which typically manage customer interactions for a percentage of each transaction, have provided renters an opportunity to connect with new customers. This new, convenient way to operate vacation rental properties has also encouraged property owners to turn second homes, investor properties, and even spare bedrooms into public lodging—often interspersed among residential neighborhoods.

Increasingly, vacation rentals are becoming a common alternative to traditional public lodging, such as hotels or motels. In 2022, Florida welcomed about 137.4 million visitors,[1] and within the same year, more than a quarter of the state's temporary public lodging units were registered as a vacation rental.[2] At the end of Fiscal Year 2021-22, Florida had about 174,000 condos and dwellings licensed for use as vacation rental units, a growth of 33 percent compared to five years prior.[3]

Florida law defines a "vacation rental" as "*any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project.*"[4] Persons who rent out an entire unit more than three times in a calendar year for stays of less than 30 days, or who market the unit to the public as property that is frequently rented out to visitors, are required to obtain a license from the Florida Department of Business and Professional Regulation (DBPR).[5]

Although illegal, unlicensed vacation rentals can be found throughout the state. Unlicensed vacation rentals avoid the costs associated with licensure, including licensing fees, balcony inspections, and safety training for housekeeping and reception staff. This not only puts the renter at risk but also creates a cost advantage over competing, legitimate businesses. Operators of unlicensed vacation rentals avoid collecting and remitting required federal, state, and local taxes, enabling them to offer lower prices which further undercuts competition and increases the cost burden on dutiful, taxpaying businesses and residents. Operators may even have a homestead exemption on the property, to which—in the absence of permanent residency—they would not otherwise be entitled.

Florida TaxWatch undertakes this independent analysis to estimate the number of unlicensed vacation rentals and consider the resulting consequences. This report outlines the potential taxes and safety regulations that may be avoided by unlicensed vacation rental operators and discusses the need for some level of accountability and transparency to make sure all vacation rental operators are abiding by the same rules and regulations.

How Many Vacation Rentals are Unlicensed?

In recent years, several data companies have specialized in analyzing vacation rental markets. One popular data source is AllTheRooms, Inc. (AllTheRooms). AllTheRooms retrieves data from the largest hosting platforms to estimate indicators—including average nightly rates, occupancy rates, and competitive trends—for local, statewide, and international markets. To determine the number of unlicensed vacation rentals in Florida, AllTheRooms data were compared to licensing data from DBPR (see, Methodology I). In November 2023, **Florida had an estimated minimum of 25,457 unlicensed vacation rentals with available listings, which is 19 percent of all available listings for that month.**

1 VISIT FLORIDA, "Florida Visitor Estimates," retrieved from https://www.visitflorida.org/resources/research/, accessed on August 28, 2023.

2 Department of Business and Professional Regulation (DBPR), Fiscal Year 2021-2022. The total number of vacation rental condos (107,625) and vacation rental dwellings (66,661) was divided by the sum of vacation rental condos, vacation rental dwellings, hotels (333,358), motels (131,074), transient apartments (21,186), and bed and breakfasts (1,763).

3 Department of Business and Professional Regulation (DBPR), Annual Report Fiscal Year 2016-2017 and Fiscal Year 2021-2022. Florida TaxWatch calculated the percent change: (174,286 – 131,072) ÷ 131,072 = 0.3297.

4 §509.242(1)(c), Fla. Stat. (2023).

5 The rental of individual rooms in an owner-occupied home, RV sites/pads, and recreational vehicles or watercraft as public lodging establishments is exempt from division licensure.

Vacation rental properties are often operated seasonally. When considering all active listings—vacation rental properties that have operated during the year and are expected to book in future dates, even if they were not active in November—Florida had an estimated minimum of 49,280 vacation rental properties that were missing proper licensing, comprising 28 percent of all active vacation rental properties (see, Methodology II).

We Don't Know What We Don't Know…

The number of available listings fluctuates greatly each month, due to seasonal changes in activity and new market entries and exits. For example, Broward County had an average of 10,558 available vacation rental listings per night in November 2023, but, amid the busy summer season, Broward County had an average of 11,461 available vacation rentals per night in May 2023. If a licensed vacation rental operates seasonally, it may be part of the DBPR database of licenses even if it does not contribute to the current listing of active vacation rentals for a given date. Due to this, the number of unlicensed vacation rentals operating in any given month is likely underestimated.

Additionally, some vacation rentals operate without use of hosting platforms, which means they are beyond the dataset provided by AllTheRooms. Sometimes, hosts will start on a hosting platform to reach clients, but once they have a base of reliable, repeat-customers, they abandon their hosting platform to conduct business on their own. Other times, hosts find their guests through social media or word of mouth. A study from the University of Florida suggested 27 percent of vacation rental bookings do not occur on a major hosting platform.[6] If this is true, the number of known active vacation rentals is a mere shadow of the full count.

Why Do Vacation Rental Licenses Matter?

The University of Central Florida calculated the economic impact of the vacation rental industry in 25 select Florida counties, using data collected in 2018.[7] The study estimated the total annual economic impact of the vacation rental industry to be about $27.4 billion. More than 14.2 million visitors stayed in vacation rentals in 2018, which represents about 11 percent of the 127 million tourists that came to Florida in 2018. On average, visitors staying in vacation rentals spent nearly $46 million per day in Florida. Florida's vacation rental industry supports one in every ten leisure and hospitality jobs statewide.[8]

Vacation rentals play an important role in Florida's economy, but the success of all public lodging can be undermined by the unethical, illegal practices associated with unlicensed vacation rentals. In the absence of transparency and accountability, unlicensed vacation rentals may avoid taxes or fail to adhere to safety standards in place to protect renters and neighbors. Counties and municipalities may have additional regulations, such as local registration or mandated inspections. **The following costs and safety precautions are the minimum requirements for all vacation rentals in Florida:**

Registration and Renewal Fees

An applicant obtaining a vacation rental license with DBPR must pay a $50 new application fee, the yearly licensing costs, and a $10 Hospitality Education Program (HEP) fee. The yearly licensing cost differs depending on the license type for which the applicant pursues, whether it be a collective license (up to 75 units located at different addresses), a group license (multiple units in the same building), or a single license (1-4 units within the same building).[9] The annual fee to use a collective license is calculated by the following formula: $150 basic fee + (number of rental units X $10) + $10 Hospitality Education Program (HEP) fee. If the license is used for less than nine months of the year, the basic fee and multiplier for rental units are divided in half. Similarly, the annual cost for renewing single or group licenses requires a $150 basic fee and $10 HEP fee, but rather than a per unit price, different numbers of units are blocked into pricing tiers (Table 1).

6 Croes, Robertico R.; Rivera, Manuel A.; Semrad, Kelly J.; Ridderstaat, Jorge; Shapoval, Valeriya; and Altin, Mehmet, "Estimating the Economic Impact of Vacation Home Rentals in Florida," University of Central Florida (2019).

7 These 25 counties combined include 89.3 percent of the total number of registered vacation rental homes in Florida.

8 Supra, see footnote 6.

9 Department of Business and Professional Regulation (DBPR), "APPLY FOR A NEW VACATION RENTAL-CONDO LICENSE." See also, "APPLY FOR A NEW VACATION RENTAL – DWELLING LICENSE."

Table 1. Single and Group License Fees to Operate a Vacation Rental.

Number of Units	Full Year Fee	Half Year Fee
Single rental unit	$170	$90
2-25	$180	$95
26-50	$195	$102.50
51-100	$210	$110
101-200	$235	$122.50
201-300	$265	$137.50
301-400	$295	$152.50
401-500	$320	$165
501 or more	$350	$180

Source: Department of Business and Professional Regulation (DBPR), Hotels and Restaurants - Lodging Fees.

Certificate of Balcony Inspection

If the rental unit is within a building with three or more stories, a balcony inspection is required every three years, the only exception being if balconies and stairs are considered “common elements” of a condominium.[10] The inspection must be conducted by “a person who, through education and experience, is competent to inspect multi-story buildings,”[11] such as engineers, architects, or general contractors. There is no standard price for a balcony inspection. The cost can be influenced by the local labor market and characteristics of the building to be inspected (i.e., size, number of stairwells, etc.).

Fire Code Compliance

As a public lodging establishment, a vacation rental must have features that keep guests safe in case of emergencies. For example, if there is a boiler within the rental unit, there must be a carbon monoxide detector device.[12] If the rental unit is within an establishment of three or more stories, where the guest area does not have direct access to the exterior or is 75 feet above the direct access to the exterior, the rental unit must have an automatic sprinkler system.[13] Depending upon the local requirements and the number of units offered, different rules may apply.

Human Trafficking Training

All public lodging is required to provide annual training on human trafficking awareness to every employee who performs housekeeping duties or serves at a reception area.[14] The DBPR has a list of approved vendors for the training, updated monthly. Typically, the cost to complete human trafficking training is low, often costing only a few dollars.

10 §509.2112(1), Fla. Stat. (2023).

11 Florida Department of State, “61C-3.001 Sanitation and Safety Requirements,” effective April 13, 2023.

12 §509.211(4), Fla. Stat. (2023).

13 §509.215(1)(b), Fla. Stat. (2023).

14 §509.2112(1), Fla. Stat. (2023).

Removed Homestead Exemptions

Homeowners who use a Florida property as a primary resident are entitled to an exemption from all taxation on the first assessed valuation of $25,000, and a second exemption from all but school districts levies on the assessed value between $50,000 and $75,000.[15] The state has a number of homestead exemptions for special circumstances, including exemptions for veterans, seniors, certain professionals (i.e., teachers, law enforcement, and firefighters), and persons with disabilities. If a property is used as a vacation rental, the property owner is no longer eligible for any of these homestead exemptions and should be paying their property taxes in full.

Remittance of Local and State Taxes

When local and state taxes are avoided, the increased strain on public services imposed by visitors cannot be balanced with increased tax revenue, which exacerbates the burden on taxpayers. Statewide, reservations at any public lodging—including vacation rentals—are subject to the state's six percent sales tax. Additionally, operators must collect and remit discretionary sales surtaxes levied by counties.

County governments can levy local option transient rental (bed) taxes on rental or lease of living, sleeping, or housekeeping accommodations for a term of six months or less. Local option transient rental taxes are important sources of local revenue used for "capital construction of tourist-related facilities, tourist promotion, and beach and shoreline maintenance," all of which help uphold the area's tourist industry.[16] Based on the most recent data released by the Florida Department of Revenue (DOR), the local option transient rental tax rates range from zero to six percent in counties throughout the state.[17]

In some cases, municipalities are eligible to impose a municipal resort tax on transient rental transactions (up to four percent). Currently, only three municipalities are eligible, all of which are located in Miami-Dade County: Bal Harbour; Miami Beach; and Surfside. Revenue from municipal resort taxes may be used to promote tourism, finance construction and for the maintenance of convention and cultural facilities, or provide relief of ad valorem taxes.

What is the Cost to Florida Taxpayers?

At the very least, unlicensed vacation rentals avoid registration and license fees, which takes away from the Hotel and Restaurant Trust Fund and the Hospitality Education Program. The Hotel and Restaurant Trust Fund is used by the DBPR's Division of Hotels and Restaurants to enforce compliance with all laws and rules pertaining to the construction, maintenance, and operations of public lodging establishments and public food service establishments.[18] In other words, the state dollars are used to maintain a level playing field—where all businesses are abiding by the same rules—and ensure customer safety.

In addition to costs and fees from DBPR, unlicensed vacation rentals pose a risk of tax evasion. When a vacation rental is operated without a license, local tax collectors have greater difficulty identifying where the economic activity takes place and providing evidence of misconduct. The same is true if an operator files for homestead exemptions to which—due to operation as a vacation rental—the property would not otherwise be entitled. It is unknown how often unlicensed vacation rentals attempt to evade taxes. In this section, Florida TaxWatch attempts to illustrate the range of risk, depending on how frequently the illicit behavior may occur.

*NOTE: The following calculations represent the Florida tax dollars lost for **a single day** of unlicensed vacation rental activity across the state. Every data point is based on nightly averages for November 2023.*

15 §196.031(1)(a), Fla. Stat. (2023).

16 Florida Department of Revenue, "Local Option Taxes," retrieved from https://floridarevenue.com/taxes/taxesfees/Pages/local_option.aspx, accessed on October 5, 2023.

17 Florida Department of Revenue, "Local Option Transient Rental Tax Rates," released August 2023. Note, some cities have their own local option transient rental tax. Due to this, Miami Beach has the highest local option transient rental tax rate at seven percent.

18 §509.072(1), Fla. Stat. (2023).

Costs and Fees from DBPR

Without knowing more about the characteristics of the unlicensed vacation rentals, it is hard to estimate the exact loss of registration fees. The type of license (i.e., single, group, or collective), length of license (half-year or full year), and the number of units within a group or collective license can all influence the cost of registration fees due.

Based on the estimated number of unlicensed vacation rentals active during November 2023—including both those with and without availability during the particular month—the total loss of registration fees (including the initial licensing fees) from unlicensed vacation rentals ranges from $1.8 million to $6.9 million (see, Methodology III). This calculation includes both delinquent vacation rentals and vacation rentals that have never been licensed. In the years to follow—absent the one-time new application fee or delinquent fee—the state continues to lose between $1.2 million to $5.5 million, annually, from the continued operation of unlicensed vacation rentals.

State and Local Sales Tax

Major hosting platforms have a voluntary tax collection agreement with the state to collect all state and local sales taxes. Due to this, it is likely these taxes are properly collected and remitted. Some vacation rental properties, however, perform transactions without the assistance of major hosting platforms. Unlicensed vacation rental activity outside of major hosting platforms poses a larger risk for local and state tax evasion due to lack of accountability and transparency. According to a study from the University of Central Florida,[19] about 27 percent of all Florida vacation rental bookings occur outside of major hosting platforms.

Local Option Transient Taxes

The local option transient tax rate represents a grouping of taxes that local governments have the right to impose on short-term rentals: the tourist development tax; convention development tax; tourist impact tax; and municipal resort tax. Similar to local sales surtaxes, counties can sign voluntary tax collection agreements with major hosting platforms in hopes of better protecting these funds. Some counties refrain from signing voluntary tax collection agreements for a number of reasons (see, "Signing Voluntary Tax Collection Agreements"). Without a voluntary tax collection agreement, the responsibility to file and return taxes lies with the vacation rental operator. Although an unlicensed vacation rental may choose to file and return taxes, there is little oversight to ensure they do so.

In Florida, 23 counties[20] do not have voluntary tax collection agreements with major hosting platforms. It is unknown how many unlicensed vacation rentals fail to collect and remit the local transient option taxes. To illustrate the range of risk, Florida TaxWatch calculated how many tax dollars would be lost if 25 percent, 50 percent, 75 percent, or 100 percent of the unlicensed vacation rentals that offered availability failed to collect and remit the local option transient taxes **for a single day in November 2023** (Methodology IV, Table 2).

Table 2. In November 2023, A Single Day of Unlicensed Vacation Rental Activity Risks Florida up to $32,000 in Local Option Transient Taxes.

Percent of Unlicensed Vacation Rentals	Tax Dollars
25%	$7,564
50%	$14,949
75%	$22,709
100%	$31,724

19 Supra, see footnote 6.

20 Alachua, Baker, Bay, DeSoto, Duval, Escambia, Flagler, Gulf, Lafayette, Liberty, Manatee, Marion, Martin, Monroe, Nassau, Okaloosa, Osceola, Palm Beach, St. Johns, St. Lucie, Santa Rosa, Suwannee, and Walton. See, "Signing Voluntary Tax Collection Agreements."

Multiplying the dollars lost to estimate year-long consequences would fail to accurately capture the true loss of local option transient taxes. New market entries and exits and seasonal differences in operations are influential variables that would need to be taken into consideration.

Homestead Exemption Fraud

Several counties throughout Florida have investigated the prevalence of homestead exemption fraud.[21] In 2016, Duval County identified 1,900 homeowners who were in violation of homestead exemption laws, resulting in the recovery of $11 million tax dollars. The property appraiser at the time claimed about 20 percent of the cases involved deliberate fraud, noting Airbnb properties were among the perpetrators.[22]

If a property is rented for more than 30 days per calendar year for two consecutive years, the homeowner is no longer eligible for a homestead exemption;[23] yet, some vacation rentals still try to file a homestead exemption, either as an act of ignorance or deceit. Since unlicensed vacation rentals operate without registration with the state, local authorities may have trouble gathering the evidence needed to identify and remedy such cases of homestead exemption fraud.

The frequency of unlicensed vacation rentals filing for homestead exemptions is unknown. To illustrate the ranging risk of homestead exemption fraud, Florida TaxWatch calculated how many tax dollars would be lost, annually, if 25 percent, 50 percent, 75 percent, or 100 percent of active unlicensed vacation rentals—both with availability and without availability in November 2023—successfully filed for the initial homestead exemption available for the first assessed value of $25,000 (Methodology V, Table 3). If additional homestead exemptions are claimed, the state risks losing even more tax dollars.

Table 3. Tax Dollars Lost Annually: Florida Risks Losing Up to $21.3 Million in Property Taxes if Unlicensed Vacation Rentals Successfully File for Homestead Exemptions.

Percent of Unlicensed Vacation Rentals	Tax Dollars
25%	$4,575,607
50%	$10,635,864
75%	$15,953,796
100%	$21,271,728

What Can Be Done to Enforce Vacation Rental Licensing?

Operating public lodging establishments—such as vacation rentals—without a license is subject to penalties defined in two Florida Statutes.

- §509.241 (Fla. Stat.) states, "It shall be a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for such an establishment to operate without a license." A second degree misdemeanor is punishable with a fine up to $500[24] or up to 60 days in prison.[25]
- §509.261 (Fla. Stat.) states that any public lodging establishment operating without a license, or operating with a suspended or revoked license, may face fines (not to exceed $1,000 per offence) or suspension, revocation, or refusal of a license.

The DBPR is responsible for vacation rentals statewide but lacks the resources to track unlicensed vacation rental activity. Hosting platforms typically do not share the address of vacation rentals with anyone other than the guest, making the DBPR reliant on complaints from the public and local authorities to identify

21 See, LexisNexis Risk Solutions, "LexisNexis Risk Solutions and Tax Management Associates Help Six Florida Counties Uncover More Than $16 Million in New Revenue and Place Over $140 Million Back on Tax Rolls," retrieved from https://risk.lexisnexis.com/about-us/press-room/press-release/20190722-tax-management, accessed on October 6, 2023.

22 Thomson Reuters Institute, "Homestead Exemptions for AirBnB Hosts are Complicated—and Often Illegal," retrieved from https://www.thomsonreuters.com/en-us/posts/investigation-fraud-and-risk/homestead-exemptions-airbnb-illegal, accessed on October 6, 2023.

23 196.061(1) Fla. Stat. (2023).

24 §775.083(1), Fla. Stat. (2023).

25 §775.082(1), Fla. Stat. (2023).

unlicensed activity. In response to complaints, the DBPR may request local law enforcement to provide assistance in pursuing an illegally operated vacation rental.[26] As of October 2023, DBPR has received 465 complaints in regard to unlicensed vacation rentals since 2010.[27]

Similar to online marketplaces like Amazon, vacation rental hosting platforms are fairly new marketplace facilitators; rules and expectations are still being developed. Across the nation, a growing number of cities, counties, and states are adopting new policies aimed to bring unlicensed vacation rentals into compliance or to protect tax dollars amid unlicensed activity.

Partnering with a Data Source

Local governments can establish partnerships with data companies or tax firms to help identify the location of unlicensed vacation rentals. In 2019, Alachua County began using Granicus software,[28] which led to the discovery that only 100 of 600 active vacation rentals were in compliance with local vacation rental laws. The tax collector conducted an education campaign, mailing letters to all the properties out of compliance, to encourage owners to register their rental units and remit the local tourist development tax. During its first year of using the software, Alachua County received $38,000 in revenue from the local tourist development tax. In its third year, it received $223,000.[29]

Requiring Registration Numbers on Hosting Platforms

Several cities, including New Orleans, Louisiana; Boston, Massachusetts; and Chicago, Illinois, require advertisements on hosting platforms to include the vacation rental's registration number. When a registration number is required on hosting platforms, it successfully limits the ways unlicensed vacation rentals can participate in the market; however, careful planning must take place to ensure registration can be processed at a pace that does not impede the business of operators.

Signing Voluntary Tax Collection Agreements

Some state and local governments enter voluntary tax collection agreements with major hosting platforms. Upon signing voluntary tax collection agreements, hosting platforms accept new liability "to ensure that proper taxes are collected and remitted while relieving hosts of onerous tax filings and government of the burden of collection and enforcement."[30] The voluntary tax collection agreement acts as a safeguard against tax evasion from unlicensed operators, but it does not address other issues associated with unlicensed vacation rentals, such as failure to abide by safety standards.

Major hosting platforms have signed voluntary tax collection agreements with the State of Florida and its counties. Airbnb has voluntary tax collection agreements with the State and 43 counties,[31] and, as of January 2020, VRBO has agreements with the State and 38 counties.[32] The agreements have been lauded by local governments across Florida.

> ***"It's a lot easier to deal with one taxpayer as opposed to thousands of individual taxpayers."[33]***
>
> **—Comptroller Phil Diamond, Orange County, FL**

26 §509.241(1), Fla. Stat. (2023).

27 Florida Department of Business and Professional Regulation, Unlicensed Activity Files—2010 through current, retrieved from http://www.myfloridalicense.com/DBPR/unlicensed-activity-public-records/#1506352872395-510be909-41f2, accessed on October 11, 2023. Analyzed by Florida TaxWatch.

28 Granicus is a data software company. To learn more about their products, visit https://granicus.com

29 Granicus, "Alachua County, FL tripled its tax revenue and eased local hospitality tensions with short-term rental management software."

30 Airbnb, Airbnb Policy Tool Chest, December 2016.

31 Airbnb, "Occupancy tax collection and remittance by Airbnb in Florida," retrieved from https://www.airbnb.com/help/article/2301, accessed on October 9, 2023.

32 VRBO, "US (F-M): Where Vrbo collects and remits taxes and lodging taxes," retrieved from https://help.vrbo.com/articles/vrbo-stay-taxes-lodging-taxes-united-states-f-m#Florida, accessed on October 9, 2023. For the 38 counties with agreements, VRBO collects and remits the county tourist development tax. In Volusia County, VRBO also remits a district convention development tax. Counties with local option transient taxes collected directly by DOR were included in the state's agreement, other counties had to complete individual agreements.

33 Orlando Sentinel, "Osceola, Seminole could cut Airbnb tax deals," August 2017.

> ***"This is an important revenue source the county uses to promote tourism and encourage economic growth for the benefit of our residents."*** [34]
>
> **–County Administrator, Sarasota County, FL**

Voluntary tax collection agreements with Airbnb have garnered some criticism. Airbnb does not have one standard agreement used among all local and state governments; rather, it conducts negotiations with each governmental entity with which it may partner. A 2017 study of Airbnb tax agreements suggested that, within negotiations, governments may agree to provisions that "weaken accountability for tax payments, create tax inequities, shield lodging activities from regulations, or generate confusion."[35]

Some Florida counties have refrained from signing voluntary tax collection agreements with hosting platforms, citing issues during negotiations as a prevailing reason. Duval County is the largest county in Florida without a voluntary tax collection agreement with Airbnb. In 2016, Airbnb offered to enter a voluntary tax collection agreement with the City of Jacksonville, but the City never signed the agreement due to concerns about back-tax forgiveness and limitations that might be placed on the City's auditing rights requirements.[36] In response, Airbnb released a statement that the City's concern for audit limitations was unfounded.[37]

Updating Taxing Structures

In 2022, Virginia passed a bill requiring hosting platforms to collect and remit taxes on behalf of their users. Passing such a bill is not easy. To maintain accordance with the United States Supreme Court decision in *South Dakota v. Wayfair* (2018), states that place an "undue burden" on interstate commerce violate the Commerce Clause and Due Process Clause of the United States Constitution. While drafting legislation, Virginia conducted a work group with Airbnb to determine what challenges to anticipate if the state were to require hosting platforms to collect and remit taxes. The work group identified the following as potential requirements that would place an undue burden on hosting platforms:

- Developing technology that can keep track of differing tax rates for each town, city, and county;
- Following each individual county's remittance schedule (i.e., monthly, quarterly, semi-annually, etc.);
- Formatting the data as the county requires, whether it be electronic returns or paper returns; and
- Subjecting the hosting platforms to audits from each individual county.[38]

Ultimately, Virginia passed a bill that garnered Airbnb's support.[39] The updated statute deems hosting platforms—referred to as the "accommodations intermediary"—as responsible for collecting retail sales and use taxes upon room charges, as well as for remitting the tax to the state.[40] The accommodations intermediary is also responsible for collecting and remitting local taxes on accommodations, submitting the property addresses and gross receipts from transactions each month.[41] If Florida were to consider adopting a similar statute, the process Virginia used to pass its bill could be used as a model.

34 Bradenton Herald, "Sarasota County enters agreement with Airbnb," April 2017.

35 Dan Bucks, "Airbnb Agreements with State and Local Tax Agencies," March 2017.

36 City of Jacksonville Council Auditor's Office, Tourist Development and Convention Development Taxes Audit- #813, May 2018.

37 Florida Politics, "As other counties move forward, Duval County leaves Airbnb money on the table," August 2018, retrieved from https://floridapolitics.com/archives/270358-jax-airbnb/, accessed on October 24, 2023.

38 Airbnb, Suggested Focus for Transient Occupancy Tax Work Group.

39 Airbnb, "Supporting Virginia's new tax collection and remittance law," October 3, 2022.

40 §58.1-612.2 (B), Code of Virginia (2023).

41 §58.1-3826 (B), Code of Virginia (2023).

Recommendations

As the popularity of vacation rentals continues to grow, the state needs to develop policies that authorize the enforcement of current law and demand transparency and accountability from vacation rentals. In recent years, a vacation rental bill was filed nearly every legislative session. Often, the bills do not make it to the Governor's desk. As legislation—inevitably—is drafted again this year, Florida TaxWatch recommends the following:

Establish a source of data.

The state should consider collecting data from hosting platforms or subscribing to existing software that tracks the activity of vacation rentals. In doing so, they would have access to addresses that could be compared to DBPR's license database, creating the ability to identify licensing gaps.

Impose a requirement to post registration numbers on hosting platforms.

Posted registration numbers ensure unlicensed vacation rentals are not hidden in plain sight. The state legislature should consider how to plan for a transition in a way that limits disruption to current vacation rental activity; for example, the state may consider authorizing a temporary license until the license application is approved.

Design a uniform way for hosting platforms to collect and remit local and state taxes, monitored by regular audits.

An incredible amount of tax dollars can be saved if hosting platforms collect and remit both local and state taxes. Due to differences among local tax structures, the state will need to design a uniform way that limits the burden on hosting platforms. With this shift in responsibility, the state will need to take precautions to ensure that the hosting platforms are dutifully delivering the proper dollars.

Involve stakeholders.

Invite DBPR, tax collectors, major hosting platforms, and vacation rental operators to work groups to determine what challenges may be presented when implementing new regulations or designing new tax structures required to better ensure compliance and accountability.

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As an independent, nonpartisan, nonprofit taxpayer research institute and government watchdog, it is the mission of Florida TaxWatch to provide the taxpayers of Florida and public officials with high quality, independent research and analysis of issues related to state and local government taxation, expenditures, policies, and programs. Florida TaxWatch works to improve the productivity and accountability of Florida government. Its research recommends productivity enhancements and explains the statewide impact of fiscal and economic policies and practices on taxpayers and businesses.

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