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THE FIGHT OVER SHORT TERM RENTALS – TWO COMPETING BILLS COULD CHANGE THE SHORT TERM RENTAL LANDSCAPE IN FLORIDA

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Florida is renowned for its tourism and real estate. The two are intertwined, a symbiotic relationship that has continued to grow. And yet, the emergence of short term rentals has created a rift in the relationship, and regulation of short term rentals is a hot issue in both local governments as well as the Florida legislature. The rise of the on-line market place for the short term rental industry, including websites like Airbnb.com and VRBO.com, continues to change the landscape of both the tourism and real estate industry.

In 2011, authority to regulate vacation rentals was given exclusively to the State of Florida; the Florida legislature preempted cities and counties from prohibiting or regulating short term rentals unless such prohibition or regulations were adopted prior to June 1, 2011. Currently, Section 509.032(7) of the Florida Statutes prohibits local laws, ordinances and regulations from prohibiting "vacation rentals" or regulating the duration or frequency of "vacation rentals". Since 2011, several bills have been introduced in the Florida legislature to loosen the preemption, including bills to which would have allowed cities and counties with existing ordinances prohibiting or regulating vacation rentals to amend those ordinances and to allow local authorities to set minimum stay requirements. In 2014, the legislature passed a bill which eased the broad state preemption on regulation of vacation rentals, allowing local governments to restrict the use of vacation rentals, but maintained the continuing the prohibition on local governments from banning vacation rentals.

State officials are again struggling with how to handle the competing interests of the traditional hospitality industry, the on-line marketplace and sharing economy, property owners and real estate investors. Florida State Senator Greg Steube, a Republican from Sarasota, has introduced SB 188, a bill that would further restrict local regulation of short term rentals. SB 188 proposes an amendment to Section 509.032(7) of the Florida Statutes to prohibit local laws, ordinances and regulations that "restrict the use of vacation rentals" or "regulate vacation rentals based solely on their classification, use or occupancy." Essentially, if enacted, the current prohibition on local governments from regulating the duration and frequency of vacation rentals will extend to any regulations of vacation rentals.

Demonstrating the tension between the on-line market place for short term rentals, the tourist industry, the concerns of permanent residents and protection of the character of communities, and real estate investors looking to rent out investment property, a competing bill has been introduced in the Florida House of Representatives by Representative David Richardson from Miami Beach. Richardson has introduced HB 6003, which proposes an amendment to Section 509.032, Florida Statutes, eliminating the state preemption completely. If enacted, HB 6003, would allow local governments to regulate, restrict or prohibit short term rentals by specifically authorizing any local law, ordinance or regulation to "prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals."

Both SB 188 and HB 6003 will be considered during the 2017 legislative session that begins on March 7. Florida's hotel industry, which considers the rise of the non-traditional providers as an attack on the industry, and which produces significant income to the State in terms of tourism and related taxes, will continue to lobby and support efforts to further restrict vacation rentals through the on-line market place. However, the on-line market place for vacation rentals is essential to tourism, Florida's number one industry. Legislators will need to consider the effects of any legislation on the hospitality industry and maintaining the State's status as a premiere tourist destination, while at the same time protecting the interests of property owners and investors, including hotel owners who have built Florida's existing hospitality industry.

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