

STATE OF NEW YORK

4899--B

2019-2020 Regular Sessions

IN SENATE

March 28, 2019

Introduced by Sens. SKOUFIS, HARCKHAM, MONTGOMERY, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the multiple dwelling law, the multiple residence law and the tax law, in relation to the regulation of short-term rental units; and to amend chapter 161 of the laws of 1970, relating to enabling any city having a population of one million or more to impose and collect taxes on the occupancy of hotel rooms in such city, in relation to authorizing any city agency administering certain taxes to enter into voluntary agreements to permit the collection and remittance of such taxes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph 1 of paragraph a of subdivision 8 of section 4
2 of the multiple dwelling law, as amended by chapter 225 of the laws of
3 2010, is amended to read as follows:
4 (1) (A) occupancy of such dwelling unit for fewer than thirty consec-
5 utive days by other natural persons living within the household of the
6 permanent occupant such as house guests or lawful boarders, roomers or
7 lodgers; [~~or~~]
8 (B) incidental and occasional occupancy of such dwelling unit for
9 fewer than thirty consecutive days by other natural persons when the
10 permanent occupants are temporarily absent for personal reasons such as
11 vacation or medical treatment, provided that there is no monetary
12 compensation paid to the permanent occupants for such occupancy; or
13 (C) occupancy of such dwelling as a short-term rental unit pursuant to
14 article seven-D of this chapter.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 § 2. The multiple dwelling law is amended by adding a new article 7-D
2 to read as follows:

3 ARTICLE 7-D
4 SHORT-TERM RENTAL UNITS

5 Section 288. Definitions.

6 289. Short-term rental units authorized.

7 290. Registration.

8 291. Requirements of hosting platforms.

9 292. Regulations.

10 § 288. Definitions. For the purposes of this article, the following
11 terms shall have the following meanings:

12 1. "Short-term rental unit" means an entire dwelling unit, or a room,
13 group of rooms, other living or sleeping space, or any other space, made
14 available for rent by guests for less than thirty consecutive days.

15 2. "Short-term rental host" means an owner or tenant of a short-term
16 rental unit who rents such unit to guests.

17 3. "Hosting platform" means a person or entity who, pursuant to an
18 agreement with a short-term rental host:

19 (a) provides a platform for compensation through which unaffiliated
20 third party short-term rental hosts can offer to rent short-term rental
21 units; and

22 (b) collects a fee in connection with either:

23 (i) providing the forum in which, or by means of which, the offer of
24 occupancy of a short-term rental unit is accepted; or

25 (ii) providing the forum in which a short-term rental host can list or
26 advertise space in a short-term rental unit.

27 § 289. Short-term rental units authorized. 1. A short-term rental host
28 may operate a dwelling unit as a short-term rental unit provided such
29 dwelling unit:

30 (a) is registered in accordance with section two hundred ninety of
31 this article;

32 (b) is not used to provide single room occupancy as defined by subdi-
33 vision sixteen of section four of this chapter;

34 (c) includes a conspicuously posted evacuation diagram identifying all
35 means of egress from the unit and the building in which it is located;

36 (d) includes a conspicuously posted list of emergency phone numbers
37 for police, fire, and poison control;

38 (e) is not subject to the emergency housing rent control law, the rent
39 and rehabilitation law of the city of New York enacted pursuant to the
40 local emergency housing rent control law, the emergency tenant
41 protection act of nineteen seventy-four, the public housing law, or
42 otherwise rent subsidized, rent controlled, rent stabilized, or consid-
43 ered affordable housing; and

44 (f) is insured for at least two hundred fifty thousand dollars to
45 protect against third party claims of property damage or bodily injury
46 that arise out of the operation of a short-term rental unit. Insurance
47 provided by hosting platforms can satisfy this requirement.

48 2. A short-term rental host shall not operate a rent-stabilized dwell-
49 ing unit as a short-term rental unit.

50 3. A short-term rental host may not operate a dwelling unit as a
51 short-term rental unit if the unit is a rent-controlled unit subject to
52 the local emergency rent control act or chapter seven of subtitle S of
53 title nine of New York's compilation of codes, rules, and regulations,
54 an income-based public housing unit, or a dwelling unit paid for with
55 vouchers or other monetary subsidies, in whole or in part, from a
56 government entity.

1 4. A short-term rental host shall not operate more than one class A
2 multiple dwelling unit as a short-term rental unit unless the units are
3 at the same address, including apartment number, if applicable.

4 5. Occupancies of a short-term rental unit shall be subject to taxes
5 and fees pursuant to articles twenty-eight and twenty-nine of the tax
6 law and applicable local laws.

7 6. Short-term rental hosts shall maintain records related to guest
8 stays for one year, including the date of each booking and the identity
9 and number of guests, and records related to their registration as
10 short-term rental hosts with the division of housing and community
11 renewal.

12 7. Hosting platforms shall maintain records related to guest stays for
13 one year, including the date of each booking and the identity and number
14 of guests. Hosting platforms shall make all relevant records available
15 to the division of housing and community renewal consistent in response
16 to valid legal process.

17 § 290. Registration. 1. Short-term rental hosts shall be required to
18 register each short-term rental unit with the division of housing and
19 community renewal.

20 2. Registrations shall be valid for two years, after which time the
21 short-term rental host may renew his or her registration in a manner
22 prescribed by the division of housing and community renewal. The divi-
23 sion of housing and community renewal may revoke the registration of a
24 short-term rental host upon a determination that the short-term rental
25 host has violated any provision of this article at least three times in
26 two calendar years, and may determine that the short-term rental host
27 shall be ineligible for registration for a period of up to twelve months
28 from the date the third violation is determined to have occurred.

29 3. The division of housing and community renewal shall set a fee for
30 short-term rental registration not to exceed one hundred dollars, with
31 revenue dedicated to enforcement of short-term rental laws.

32 4. Hosting platforms are authorized to facilitate the registration
33 process by collecting the required information and transmitting it to
34 the division of housing and community renewal for processing.

35 § 291. Requirements of hosting platforms. Hosting platforms shall:

36 1. create a dedicated means by which complaints can be submitted by
37 short-term rental hosts, guests, and community members. These means
38 shall be available twenty-four hours a day, seven days a week.

39 2. provide the division of housing and community renewal and the New
40 York city mayor's office of special enforcement with anonymized statis-
41 tics on a quarterly basis regarding the short-term rental of properties
42 on their platforms in cities with a population of one million or more.
43 Such report shall be submitted within thirty days following the end of
44 each calendar quarter in which it operates as a hosting platform in a
45 manner to be determined by the division of housing and community
46 renewal. The information to be disclosed shall include:

47 (a) statistics regarding each short-term rental unit that was rented
48 on the platform during the previous quarter, including city, borough,
49 zip code, listing type (such as whether the listing is for an entire or
50 shared property), the number of nights rented for the reporting period,
51 the number of nights rented for the calendar year, and the total amount
52 of revenue submitted to the short-term rental host in connection with
53 the rental of the unit in question. Information regarding the number of
54 nights rented shall be reported in ranges of twenty-five. Information
55 regarding the total amount of revenue shall be reported in ranges of ten
56 thousand dollars; and

1 (b) statistics regarding each short-term rental host who rented a
2 short-term rental unit on the platform during the previous quarter,
3 including:

4 (i) the number of distinct addresses simultaneously advertised as
5 short-term rentals during the prior reporting period for each short-term
6 rental host simultaneously advertising more than one distinct address as
7 a short-term rental during the reporting period; and

8 (ii) the number of such distinct addresses simultaneously rented as
9 short-term rentals during the reporting period for each short-term
10 rental host simultaneously advertising more than one distinct address as
11 a short-term rental during the reporting period. Hosting platforms
12 shall not have the obligation to disclose any listing or host-level
13 information if the disclosure could reasonably lead to the identifica-
14 tion of a specific property or short-term rental host.

15 3. maintain records of all transactions in cities with a population of
16 a million or more for a period of twelve months.

17 4. inform short-term rental hosts of the registration requirement and,
18 if requested to do so, collect and transmit the required information to
19 the division of housing and community renewal on behalf of the short-
20 term rental host.

21 § 292. Regulations. The division of housing and community renewal
22 shall promulgate regulations necessary and appropriate to enforce this
23 article, including regulations to facilitate the registration of short-
24 term rental hosts and to facilitate information sharing between and
25 among the division, hosting platforms, and other enforcement agencies.

26 § 3. Section 304 of the multiple dwelling law is amended by adding a
27 new subdivision 1-b to read as follows:

28 1-b. a. Every person who shall violate or assist in the violation of
29 any provision of sections two hundred eighty-nine or two hundred ninety
30 of this chapter shall be guilty of an offense, and any person found to
31 have committed three or more offenses of such sections may be prohibited
32 from operating a short-term rental unit for a period of one year.

33 b. The maximum fine for violating subdivision four of section two
34 hundred eighty-nine of this chapter shall be one thousand dollars for a
35 first offense; four thousand dollars for the second offense; and seven
36 thousand five hundred dollars for the third or any subsequent offense.
37 The maximum fine for violating subdivision two of section two hundred
38 eighty-nine of this chapter shall be the difference between the annual
39 rent generated by the short-term rental and the annual legal rent, plus
40 an additional fine of fifty dollars for the first offense, one hundred
41 dollars for the second offense, and two hundred fifty dollars for the
42 third offense. The maximum fine for violating subdivision three of
43 section two hundred eighty-nine of this chapter shall be the amount of
44 revenue generated from the short-term rental plus an additional fine of
45 fifty dollars for the first offense, one hundred dollars for the second
46 offense, and two hundred fifty dollars for the third offense. The maxi-
47 mum fine for all other provisions of sections two hundred eighty-nine or
48 two hundred ninety of this chapter shall be fifty dollars for a first
49 offense; one hundred dollars for the second offense; and two hundred
50 fifty dollars for the third or any subsequent offense.

51 c. Any violation under this subdivision shall not be a crime and the
52 penalty or punishment imposed therefor shall not be deemed for any
53 purpose a penal or criminal penalty or punishment, and shall not impose
54 any disability upon or affect or impair the credibility as a witness, or
55 otherwise, of any person convicted thereof.

1 § 4. The multiple residence law is amended by adding a new article 4-A
2 to read as follows:

3 ARTICLE 4-A
4 SHORT-TERM RENTAL UNITS

5 Section 80. Definitions.

6 81. Short-term rental units authorized.

7 82. Registration.

8 83. Requirements of hosting platforms.

9 84. Regulations.

10 § 80. Definitions. For the purposes of this article, the following
11 terms shall have the following meanings:

12 1. "Short-term rental unit" means an entire dwelling unit, or a room,
13 group of rooms, other living or sleeping space, or any other space, made
14 available for rent by guests for less than thirty consecutive days.

15 2. "Short-term rental host" means an owner or tenant of a short-term
16 rental unit who rents such unit to guests.

17 3. "Hosting platform" means a person or entity who, pursuant to an
18 agreement with a short-term rental host:

19 (a) provides a platform for compensation through which unaffiliated
20 third party short-term rental hosts can offer to rent short-term rental
21 units; and

22 (b) collects a fee in connection with either:

23 (i) providing the forum in which, or by means of which, the offer of
24 occupancy of a short-term rental unit is accepted; or

25 (ii) providing the forum in which a short-term rental host can list or
26 advertise space in a short-term rental unit.

27 § 81. Short-term rental units authorized. 1. A short-term rental host
28 may operate a dwelling unit as a short-term rental unit provided such
29 dwelling unit:

30 (a) is registered in accordance with section eighty-two of this arti-
31 cle;

32 (b) is not used to provide single room occupancy as defined by subdi-
33 vision forty-four of section four of this chapter;

34 (c) includes a conspicuously posted evacuation diagram identifying all
35 means of egress from the unit and the building in which it is located;

36 (d) includes a conspicuously posted list of emergency phone numbers
37 for police, fire, and poison control;

38 (e) is not subject to the emergency housing rent control law, the rent
39 and rehabilitation law of the city of New York enacted pursuant to the
40 local emergency housing rent control law, the emergency tenant
41 protection act of nineteen seventy-four, the public housing law, or
42 otherwise rent subsidized, rent controlled, rent stabilized, or consid-
43 ered affordable housing; and

44 (f) is insured for at least two hundred fifty thousand dollars to
45 protect against third party claims of property damage or bodily injury
46 that arise out of the operation of a short-term rental unit. Insurance
47 provided by hosting platforms can satisfy this requirement.

48 2. A short-term rental host shall not operate a dwelling unit as a
49 short-term rental unit if the unit is a rent-controlled unit subject to
50 chapter seven of subtitle S of title nine of New York's compilation of
51 codes, rules, and regulations, an income-based public housing unit, or a
52 dwelling unit paid for with vouchers or other monetary subsidies, in
53 whole or in part, from a government entity.

54 3. Occupancies of a short-term rental unit shall be subject to taxes
55 and fees pursuant to articles twenty-eight and twenty-nine of the tax
56 law and applicable local laws.

1 4. Short-term rental hosts shall maintain records related to guest
2 stays for one year, including the date of each booking and the identity
3 and number of guests, and records related to their registration as
4 short-term rental hosts with the division of housing and community
5 renewal.

6 5. Hosting platforms shall maintain records related to guest stays for
7 one year, including the date of each booking and the identity and number
8 of guests. Hosting platforms shall make all relevant records available
9 to the division of housing and community renewal consistent in response
10 to valid legal process.

11 § 82. Registration. 1. Short-term rental hosts shall be required to
12 register each short-term rental unit with the division of housing and
13 community renewal.

14 2. Registrations shall be valid for two years, after which time the
15 short-term rental host may renew his or her registration in a manner
16 prescribed by the division of housing and community renewal. The divi-
17 sion of housing and community renewal may revoke the registration of a
18 short-term rental host upon a determination that the short-term rental
19 host has violated any provision of this article at least three times in
20 two calendar years, and may determine that the short-term rental host
21 shall be ineligible for registration for a period of up to twelve months
22 from the date the third violation is determined to have occurred.

23 3. The division of housing and community renewal shall set a fee for
24 short-term rental registration not to exceed one hundred dollars, with
25 revenue dedicated to enforcement of short-term rental laws.

26 4. Hosting platforms are authorized to facilitate the registration
27 process by collecting the required information and transmitting it to
28 the division of housing and community renewal for processing.

29 § 83. Requirements of hosting platforms. Hosting platforms shall:

30 1. create a dedicated means by which complaints can be submitted by
31 short-term rental hosts, guests, and community members. These means
32 shall be available twenty-four hours a day, seven days a week.

33 2. provide the division of housing and community renewal with anonym-
34 ized statistics on a quarterly basis regarding the short-term rental of
35 properties on their platforms. Such report shall be submitted within
36 thirty days following the end of each calendar quarter in which it oper-
37 ates as a hosting platform in a manner to be determined by the division
38 of housing and community renewal. The information to be disclosed shall
39 include:

40 (a) statistics regarding each short-term rental unit that was rented
41 on the platform during the previous quarter, including city, zip code,
42 listing type (such as whether the listing is for an entire or shared
43 property), the number of nights rented for the reporting period, the
44 number of nights rented for the calendar year, and the total amount of
45 revenue submitted to the short-term rental host in connection with the
46 rental of the unit in question. Information regarding the number of
47 nights rented shall be reported in ranges of twenty-five. Information
48 regarding the total amount of revenue shall be reported in ranges of ten
49 thousand dollars; and

50 (b) statistics regarding each short-term rental host who rented a
51 short-term rental unit on the platform during the previous quarter,
52 including:

53 (i) the number of distinct addresses simultaneously advertised as
54 short-term rentals during the prior reporting period for each short-term
55 rental host simultaneously advertising more than one distinct address as
56 a short-term rental during the reporting period; and

1 (ii) the number of such distinct addresses simultaneously rented as
2 short-term rentals during the reporting period for each short-term
3 rental host simultaneously advertising more than one distinct address as
4 a short-term rental during the reporting period. Hosting platforms
5 shall not have the obligation to disclose any listing or host-level
6 information if the disclosure could reasonably lead to the identifica-
7 tion of a specific property or short-term rental host.

8 3. inform short-term rental hosts of the registration requirement and,
9 if requested to do so, collect and transmit the required information to
10 the division of housing and community renewal on behalf of the short-
11 term rental host.

12 § 84. Regulations. The division of housing and community renewal shall
13 promulgate regulations necessary and appropriate to enforce this arti-
14 cle, including regulations to facilitate the registration of short-term
15 rental hosts and to facilitate information sharing between and among the
16 division, hosting platforms, and other enforcement agencies.

17 § 5. Section 304 of the multiple residence law is amended by adding a
18 new subdivision 1-a to read as follows:

19 1-a. a. Every person who shall violate or assist in the violation of
20 any provision of sections eighty-one or eighty-two of this chapter shall
21 be guilty of an offense, and any person found to have committed three or
22 more offenses of such sections may be prohibited from operating a short-
23 term rental unit for a period of one year.

24 b. The maximum fine for violating subdivision two of section eighty-
25 one of this chapter shall be the amount of revenue generated from the
26 short-term rental plus an additional fine of fifty dollars for the first
27 offense, one hundred dollars for the second offense, and two hundred
28 fifty dollars for the third offense. The maximum fine for all other
29 provisions of sections eighty-one or eighty-two of this chapter shall be
30 fifty dollars for a first offense; one hundred dollars for the second
31 offense; and two hundred fifty dollars for the third or any subsequent
32 offense.

33 c. Any violation under this subdivision shall not be a crime and the
34 penalty or punishment imposed therefor shall not be deemed for any
35 purpose a penal or criminal penalty or punishment, and shall not impose
36 any disability upon or affect or impair the credibility as a witness, or
37 otherwise, of any person convicted thereof.

38 § 6. Subdivision (c) of section 1101 of the tax law, as added by chap-
39 ter 93 of the laws of 1965, paragraphs 2, 3, 4 and 6 as amended by
40 section 2 and paragraph 8 as added by section 3 of part AA of chapter 57
41 of the laws of 2010, and paragraph 5 as amended by chapter 575 of the
42 laws of 1965, is amended and two new paragraphs 9 and 10 are added to
43 read as follows:

44 (c) When used in this article for the purposes of the tax imposed
45 under subdivision (e) of section eleven hundred five, and subdivision
46 (a) of section eleven hundred four, the following terms shall mean:

47 (1) Hotel. A building or portion of it which is regularly used and
48 kept open as such for the lodging of guests. The term "hotel" includes
49 an apartment hotel, a motel, boarding house or club, whether or not
50 meals are served, and short-term rental units.

51 (2) Occupancy. The use or possession, or the right to the use or
52 possession, of any room in a hotel. "Right to the use or possession"
53 includes the rights of a room remarketer as described in paragraph eight
54 of this subdivision.

55 (3) Occupant. A person who, for a consideration, uses, possesses, or
56 has the right to use or possess, any room in a hotel under any lease,

1 concession, permit, right of access, license to use or other agreement,
2 or otherwise. "Right to use or possess" includes the rights of a room
3 remarketer as described in paragraph eight of this subdivision.

4 (4) Operator. Any person operating a hotel. Such term shall include a
5 room remarketer and such room remarketer shall be deemed to operate a
6 hotel, or portion thereof, with respect to which such person has the
7 rights of a room remarketer.

8 (5) Permanent resident. Any occupant of any room or rooms in a hotel
9 for at least ninety consecutive days shall be considered a permanent
10 resident with regard to the period of such occupancy.

11 (6) Rent. The consideration received for occupancy, including any
12 service or other charge or amount required to be paid as a condition for
13 occupancy, valued in money, whether received in money or otherwise and
14 whether received by the operator [~~or~~], a hosting platform, a room
15 remarketer or another person on behalf of [~~either~~] any of them. Rent
16 shall not include a separately stated fee or similar charge paid by the
17 occupant to the hosting platform for: (i) providing the forum in which,
18 or by means of which, the offer of occupancy is accepted, including an
19 internet website or similar forum; (ii) arranging for the exchange of
20 information or messages between the occupant and the operator of the
21 hotel; or (iii) facilitating payment between the occupant and the opera-
22 tor of the hotel.

23 (7) Room. Any room or rooms of any kind in any part or portion of a
24 hotel, which is available for or let out for any purpose other than a
25 place of assembly.

26 (8) Room remarketer. A person who reserves, arranges for, conveys, or
27 furnishes occupancy, whether directly or indirectly, to an occupant for
28 rent in an amount determined by the room remarketer, directly or indi-
29 rectly, whether pursuant to a written or other agreement. Such person's
30 ability or authority to reserve, arrange for, convey, or furnish occu-
31 pancy, directly or indirectly, and to determine rent therefor, shall be
32 the "rights of a room remarketer". A room remarketer is not a permanent
33 resident with respect to a room for which such person has the rights of
34 a room remarketer. This term does not include a hosting platform.

35 (9) Short-term rental unit. A room, group of rooms, or other living or
36 sleeping space, or any other space let to occupants, including but not
37 limited to private dwellings, residences, or buildings used as resi-
38 dences.

39 (10) Hosting platform. A person or entity who, pursuant to an agree-
40 ment with an operator of a hotel:

41 (i) provides a platform for compensation through which an unaffiliated
42 third party hotel operator offers to rent space in a hotel; and

43 (ii) collects a fee in connection with either:

44 (A) providing the forum in which, or by means of which, the offer of
45 occupancy of a hotel room is accepted; or

46 (B) providing the forum in which a hotel operator can list or adver-
47 tise space in a hotel for occupancy.

48 § 7. Subdivision (e) of section 1105 of the tax law is amended by
49 adding a new paragraph 3 to read as follows:

50 (3) The rent for every occupancy of a room or rooms in a hotel offered
51 for rent through a hosting platform, as defined in paragraph ten of
52 subdivision (c) of section eleven hundred one of this article, regard-
53 less of whether it is furnished, limited to a single family occupancy,
54 or provides housekeeping, food, or other common hotel services, includ-
55 ing, but not limited to, entertainment or planned activities.

1 § 8. Subdivision (a) of section 1104 of the tax law, as added by chap-
2 ter 3 of the laws of 2004, is amended to read as follows:

3 (a) Imposition. In addition to any other fee or tax imposed by this
4 article or any other law, on and after April first, two thousand five,
5 there is hereby imposed within the territorial limits of a city with a
6 population of a million or more and there shall be paid a unit fee on
7 every occupancy of a unit in a hotel in such city subject to tax under
8 paragraphs one through three of subdivision (e) of section eleven
9 hundred five of this part at the rate of one dollar and fifty cents per
10 unit per day, except that such unit fee shall not be imposed upon (1)
11 occupancy by a permanent resident or (2) where the rent per unit is not
12 more than at the rate of two dollars per day.

13 § 9. Subdivision 1 of section 1131 of the tax law, as amended by
14 section 2 of part G of chapter 59 of the laws of 2019, is amended to
15 read as follows:

16 (1) "Persons required to collect tax" or "person required to collect
17 any tax imposed by this article" shall include: every vendor of tangible
18 personal property or services; every recipient of amusement charges;
19 every operator of a hotel; ~~and~~ every marketplace provider with respect
20 to sales of tangible personal property it facilitates as described in
21 paragraph one of subdivision (e) of section eleven hundred one of this
22 article; and hosting platforms where the hosting platform voluntarily
23 consents to assume the tax collection and remittance responsibilities of
24 an operator of a hotel unless relieved of such obligation pursuant to
25 paragraph four of subdivision (m) of section eleven hundred thirty-two
26 of this part. Said terms shall also include any officer, director or
27 employee of a corporation or of a dissolved corporation, any employee of
28 a partnership, any employee or manager of a limited liability company,
29 or any employee of an individual proprietorship who as such officer,
30 director, employee or manager is under a duty to act for such corpo-
31 ration, partnership, limited liability company or individual proprietor-
32 ship in complying with any requirement of this article, or has so acted;
33 and any member of a partnership or limited liability company. Provided,
34 however, that any person who is a vendor solely by reason of clause (D)
35 or (E) of subparagraph (i) of paragraph (8) of subdivision (b) of
36 section eleven hundred one of this article shall not be a "person
37 required to collect any tax imposed by this article" until twenty days
38 after the date by which such person is required to file a certificate of
39 registration pursuant to section eleven hundred thirty-four of this
40 part.

41 § 10. Section 1132 of the tax law is amended by adding a new subdivi-
42 sion (m) to read as follows:

43 (m)(1) A hosting platform may enter into a voluntary agreement with
44 the commissioner, under which the hosting platform shall collect and
45 remit taxes on occupancies of rentals of hotels on or after the effec-
46 tive date of the voluntary agreement; provided however, that when a
47 hosting platform enters into such a voluntary agreement, it shall be
48 required to (i) collect from the occupants the applicable taxes arising
49 from such occupancies; (ii) comply with all the provisions of this arti-
50 cle and article twenty-nine of this chapter and any regulations adopted
51 pursuant thereto; (iii) register to collect tax under section eleven
52 hundred thirty-four of this part; and (iv) retain records and informa-
53 tion as required by the commissioner and cooperate with the commissioner
54 to ensure the proper collection and remittance of tax imposed,
55 collected, or required to be collected under this article and article
56 twenty-nine of this chapter.

1 (2) In carrying out the obligations imposed under this section, a
2 hosting platform shall have all the duties, benefits, and entitlements
3 of a person required to collect tax under this article and article twen-
4 ty-nine of this chapter with respect to the occupancies giving rise to
5 the tax obligation, including the right to accept a certificate or other
6 documentation from an occupant substantiating an exemption or exclusion
7 from tax, as if such hosting platform were the operator of the hotel
8 with respect to such occupancy, including the right to receive the
9 refund authorized by subdivision (e) of this section and the credit
10 allowed by subdivision (f) of section eleven hundred thirty-seven of
11 this part.

12 (3) No hosting platform shall be required to list any operator of a
13 hotel on any return required to be filed under this article and article
14 twenty-nine of this chapter or under any regulations adopted pursuant
15 thereto. Audits of any hosting platform shall be conducted solely on the
16 basis of the tax identification number associated with each hosting
17 platform and shall not be conducted directly or indirectly on any opera-
18 tor of a hotel or any occupant to whom occupancy is rented from an oper-
19 ator of a hotel, nor shall any hosting platform be required to disclose
20 any personally identifiable information relating to any operator of a
21 hotel or occupant to whom occupancy is rented from an operator of a
22 hotel.

23 (4) An operator of a hotel is not a person required to collect tax for
24 purposes of this part with respect to taxes imposed upon occupancies of
25 hotels if:

26 (i) the operator of the hotel can show that the occupancy was facili-
27 tated by a hosting platform who is registered to collect tax pursuant to
28 section eleven hundred thirty-four of this part; and

29 (ii) the operator of the hotel accepted from the hosting platform a
30 properly completed certificate of collection in a form prescribed by the
31 commissioner certifying that the hosting platform has agreed to assume
32 the tax collection and filing responsibilities of the operator of the
33 hotel; and

34 (iii) any failure of the hosting platform to collect the proper amount
35 of tax with respect to such occupancy was not the result of the operator
36 of the hotel providing incorrect information to the hosting platform,
37 whether intentional or unintentional.

38 This provision shall be administered in a manner consistent with
39 subparagraph (i) of paragraph one of subdivision (c) of this section as
40 if a certificate of collection were a resale or exemption certificate
41 for purposes of such subparagraph, including with regard to the
42 completeness of such certificate of collection and the timing of its
43 acceptance by the operator of the hotel; provided however, that with
44 regard to any occupancies sold by an operator of the hotel that are
45 facilitated by a hosting platform who is affiliated with such operator,
46 the operator shall be deemed liable as a person under a duty to act for
47 such hosting platform for purposes of subdivision one of section eleven
48 hundred thirty-one of this part.

49 (5) The commissioner may, in his or her discretion, (i) develop stand-
50 ard language, or approve language developed by a hosting platform, in
51 which the hosting platform obligates itself to collect the tax on behalf
52 of all the operators of hotels; and (ii) provide by regulation or other-
53 wise that the inclusion of such language in an agreement between a host-
54 ing platform and the commissioner as provided for in paragraph one of
55 this subdivision shall, upon notice to the operator, have the same

1 effect as an operator's acceptance of a certificate of collection from a
2 hosting platform under paragraph four of this subdivision.

3 (6) In the event an operator of a hotel is a room remarketer, and all
4 other provisions of this subdivision are met such that a hosting plat-
5 form is obligated to collect tax, and does in fact collect tax as
6 evidenced by the books and records of such hosting platform, then the
7 provisions of subdivision (e) of section eleven hundred nineteen of this
8 article shall be applicable.

9 (7) Information provided by a hosting platform to the commissioner
10 shall be confidential. Such confidential information shall not be
11 disclosed by the commissioner unless the hosting platform has given
12 written consent to make such disclosure or there is an agreement between
13 the hosting platform and the commissioner to make such disclosure.
14 Notwithstanding any law to the contrary, information provided by a host-
15 ing platform shall not be subject to article six of the public officers
16 law and shall not be provided to any other agency of the state, locali-
17 ty, or any other government entity or political subdivision.

18 § 11. Section 1202 of the tax law is amended by adding a new subdivi-
19 sion (h) to read as follows:

20 (h) It is expressly recognized that any county authorized and
21 empowered to impose hotel, motel, or occupancy taxes pursuant to this
22 subpart has the authority to permit the county agency that administers
23 such taxes to enter into voluntary agreements with any person or third
24 party, including but not limited to hosting platforms, to permit such
25 person, third party, or platform to collect and remit such taxes on
26 behalf of the party or parties required to collect and remit them under
27 the applicable statutes. The voluntary agreement shall be evinced by a
28 signed, written agreement between the county agency that administers
29 such taxes and the person or third party assuming the obligation to
30 collect and remit the taxes.

31 § 12. Section 1 of chapter 161 of the laws of 1970, relating to enabl-
32 ing any city having a population of one million or more to impose and
33 collect taxes on the occupancy of hotel rooms in such city, is amended
34 by adding a new subdivision 11 to read as follows:

35 (11) It is expressly recognized that any city agency administering the
36 taxes authorized by this act is permitted to enter into voluntary agree-
37 ments with any person or third party, including but not limited to host-
38 ing platforms, to permit such person, third party, or platform to
39 collect and remit such taxes on behalf of the party or parties required
40 to collect and remit them under the applicable statutes. The voluntary
41 agreement shall be evinced by a signed, written agreement between the
42 city agency responsible for administering the taxes and the person or
43 third party assuming the obligation to collect and remit the taxes.

44 § 13. Nothing in this act shall affect the validity of an otherwise
45 lawful lease agreement or regulation of cooperatives or condominiums.

46 § 14. This act shall take effect on the one hundred twentieth day
47 after it shall have become a law.