

# 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.

LBD10115-07-9

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 twenty-  
4 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.