

STATE OF NEW YORK

1658

2021-2022 Regular Sessions

IN SENATE

January 14, 2021

Introduced by Sens. SKOUFIS, HARCKHAM -- read twice and ordered printed,
and when printed to be committed to the Committee on Housing,
Construction and Community Development

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 remit-
tance of such taxes

The People of the State of New York, represented in Senate and Assem-
bly, 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.

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

ARTICLE 7-D

SHORT-TERM RENTAL UNITS

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

LBD05843-01-1

1 Section 288. Definitions.

2 289. Short-term rental units authorized.

3 290. Registration.

4 291. Requirements of hosting platforms.

5 292. Regulations.

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

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

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

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

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

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

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

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

23 § 289. Short-term rental units authorized. 1. A short-term rental host
24 may operate a dwelling unit as a short-term rental unit provided such
25 dwelling unit:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. The maximum fine for violating subdivision four of section two hundred eighty-nine of this chapter shall be one thousand dollars for a first offense; four thousand dollars for the second offense; and seven thousand five hundred dollars for the third or any subsequent offense. The maximum fine for violating subdivision two of section two hundred eighty-nine of this chapter shall be the difference between the annual rent generated by the short-term rental and the annual legal rent, plus an additional fine of fifty dollars for the first offense, one hundred dollars for the second offense, and two hundred fifty dollars for the third offense. The maximum fine for violating subdivision three of section two hundred eighty-nine of this chapter shall be the amount of revenue generated from the short-term rental plus an additional fine of fifty dollars for the first offense, one hundred dollars for the second offense, and two hundred fifty dollars for the third offense. The maximum fine for all other provisions of sections two hundred eighty-nine or two hundred ninety of this chapter shall be fifty dollars for a first offense; one hundred dollars for the second offense; and two hundred fifty dollars for the third or any subsequent offense.

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

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

ARTICLE 4-A SHORT-TERM RENTAL UNITS

1 Section 80. Definitions.

2 81. Short-term rental units authorized.

3 82. Registration.

4 83. Requirements of hosting platforms.

5 84. Regulations.

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

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

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

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

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

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

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

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

23 § 81. Short-term rental units authorized. 1. A short-term rental host
24 may operate a dwelling unit as a short-term rental unit provided such
25 dwelling unit:

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

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

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

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

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

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

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

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

53 4. Short-term rental hosts shall maintain records related to guest
54 stays for one year, including the date of each booking and the identity
55 and number of guests, and records related to their registration as

1 short-term rental hosts with the division of housing and community
2 renewal.

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

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

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

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

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

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

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

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

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

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

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

54 (ii) the number of such distinct addresses simultaneously rented as
55 short-term rentals during the reporting period for each short-term
56 rental host simultaneously advertising more than one distinct address as

1 a short-term rental during the reporting period. Hosting platforms
2 shall not have the obligation to disclose any listing or host-level
3 information if the disclosure could reasonably lead to the identifica-
4 tion of a specific property or short-term rental host.

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

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

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

16 1-a. a. Every person who shall violate or assist in the violation of
17 any provision of sections eighty-one or eighty-two of this chapter shall
18 be guilty of an offense, and any person found to have committed three or
19 more offenses of such sections may be prohibited from operating a short-
20 term rental unit for a period of one year.

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

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

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

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

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

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

52 (3) Occupant. A person who, for a consideration, uses, possesses, or
53 has the right to use or possess, any room in a hotel under any lease,
54 concession, permit, right of access, license to use or other agreement,
55 or otherwise. "Right to use or possess" includes the rights of a room
56 remarketer as described in paragraph eight of this subdivision.

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

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

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

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

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

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

(10) Hosting platform. A person or entity who, pursuant to an agreement with an operator of a hotel:

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

(ii) collects a fee in connection with either:

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

(B) providing the forum in which a hotel operator can list or advertise space in a hotel for occupancy.

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

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

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

(a) Imposition. In addition to any other fee or tax imposed by this article or any other law, on and after April first, two thousand five,

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

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

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

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

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

53 (2) In carrying out the obligations imposed under this section, a
54 hosting platform shall have all the duties, benefits, and entitlements
55 of a person required to collect tax under this article and article twen-
56 ty-nine of this chapter with respect to the occupancies giving rise to

1 the tax obligation, including the right to accept a certificate or other
2 documentation from an occupant substantiating an exemption or exclusion
3 from tax, as if such hosting platform were the operator of the hotel
4 with respect to such occupancy, including the right to receive the
5 refund authorized by subdivision (e) of this section and the credit
6 allowed by subdivision (f) of section eleven hundred thirty-seven of
7 this part.

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

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

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

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

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

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

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

54 (6) In the event an operator of a hotel is a room remarketer, and all
55 other provisions of this subdivision are met such that a hosting plat-
56 form is obligated to collect tax, and does in fact collect tax as

1 evidenced by the books and records of such hosting platform, then the
2 provisions of subdivision (e) of section eleven hundred nineteen of this
3 article shall be applicable.

4 (7) Information provided by a hosting platform to the commissioner
5 shall be confidential. Such confidential information shall not be
6 disclosed by the commissioner unless the hosting platform has given
7 written consent to make such disclosure or there is an agreement between
8 the hosting platform and the commissioner to make such disclosure.

9 Notwithstanding any law to the contrary, information provided by a host-
10 ing platform shall not be subject to article six of the public officers
11 law and shall not be provided to any other agency of the state, locali-
12 ty, or any other government entity or political subdivision.

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

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

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

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

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

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