

STATE OF NEW YORK

4130

2023-2024 Regular Sessions

IN ASSEMBLY

February 9, 2023

Introduced by M. of A. FAHY -- read once and referred to the Committee on Housing

AN ACT to amend the multiple residence law, the multiple dwelling law, and the tax law, in relation to short-term residential rental of private dwellings in certain municipalities

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

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

ARTICLE 2-A

SHORT-TERM RESIDENTIAL RENTAL UNITS

Section 20. Definitions.

6 21. Short-term residential rental units; regulation.

7 22. Registration.

8 23. Exceptions.

9 24. Penalties.

10 24-a. Enforcement.

11 24-b. Data sharing.

12 § 20. Definitions. For the purposes of this article, the following terms shall have the following meanings:

14 1. "Short-term residential rental unit" means an entire dwelling unit, or a room, group of rooms, other living or sleeping space, or any other space within a dwelling, made available for rent by guests for less than thirty consecutive days, where the unit is offered for tourist or transient use by the short-term rental host of the residential unit.

19 2. "Short-term rental host" means a person in valid legal possession of a short-term rental unit who rents such unit to guests.

21 3. "Booking service" means a person or entity who, directly or indirectly:

23 (a) provides one or more online, computer or application-based platforms that individually or collectively can be used to:

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

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(i) list or advertise offers for short-term rentals, and
(ii) either accept such offers, or reserve or pay for such rentals;
and

(b) charges, collects or receives a fee for the use of such a platform or for provision of any service in connection with a short-term rental. A booking service shall not be construed to include a platform that solely lists or advertises offers for short-term rentals.

§ 21. Short-term residential rental units; regulation. 1. A short-term rental host may operate a dwelling unit as a short-term residential rental unit provided such dwelling unit:

(a) is registered in accordance with section twenty-two of this article;

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

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

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

(e) has a working fire-extinguisher; and

(f) is insured by an insurer licensed to write insurance in this state or procured by a duly licensed excess line broker pursuant to section two thousand one hundred eighteen of the insurance law for at least the value of the dwelling, plus a minimum of three hundred thousand dollars coverage for third party claims of property damage or bodily injury that arise out of the operation of a short-term rental unit. Notwithstanding any other provision of law, no insurer shall be required to provide such coverage.

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

3. Short-term rental hosts shall maintain records related to guest stays for two years following the end of the calendar year in which an individual rental stay occurred, including the date of each stay and number of guests, the cost for each stay, including relevant tax, and records related to their registration as short-term rental hosts with the department of state. As a requirement for registration under section twenty-two of this article, hosts shall provide these records to the department of state on an annual basis. The department shall share this report with county, city, town, or village governments and shall make such reports available to local municipal enforcement agencies upon request.

4. Notwithstanding the provisions of any other law or administrative action to the contrary, booking services shall develop and maintain a report related to short-term rental unit guest stays that the booking service has facilitated in the state for two years following the end of the calendar year in which an individual rental stay occurred. The report shall include the dates of each stay and the number of guests, the cost for each stay, including relevant tax, the physical address, including any unit designation, of each short-term rental unit booked, the full legal name of each short-term rental unit's host, and each short-term rental unit's registration number. In the event a booking service does not adhere to subdivision two of section twenty-two of this article, or more information is deemed necessary by the department of state, the department may access this report and/or all relevant records from a booking service in response to valid legal process. The department shall share this report and/or records with county, city, town, or

1 village governments and shall make such reports available to local
2 municipal enforcement agencies when lawfully requested.

3 5. It shall be unlawful for a booking service to collect a fee for
4 facilitating booking transactions for short-term residential rental
5 units located in this state if the short-term rental unit and its owner
6 or tenant have not been issued a current, valid registration by the
7 department of state or an applicable municipality.

8 6. The provisions of this article shall apply to all short-term resi-
9 dential rental units in the state; provided, however, that a munici-
10 pality that has its own short-term residential rental unit registry may
11 continue such registry and all short-term residential rental units in
12 such municipality shall be required to be registered with such municipal
13 registry and shall not be required to register with the department of
14 state. Municipalities with short-term residential rental unit registries
15 shall maintain the authority to manage such registries; provided, howev-
16 er, that such municipalities shall provide information on short-term
17 residential rental units registered within such municipality to the
18 department of state, as required by the department, in order for the
19 department to maintain a current database of all short-term residential
20 units registered within the state. Municipalities with short-term resi-
21 dential rental unit registries shall not be subject to the regulation
22 requirements of this section and may establish registration requirements
23 and regulations in such municipality which may differ from the require-
24 ments of this section.

25 § 22. Registration. 1. Short-term rental hosts shall be required to
26 register a short-term residential rental unit with the department of
27 state or with the municipality where such short-term residential unit is
28 located if such municipality has a registration system; provided, howev-
29 er, that the department of state shall not accept an application to
30 register a short-term residential rental unit for a unit that is located
31 in a municipality which has its own registration system and that has
32 notified the department of state of such registration system.

33 (a) Registration with the department of state shall be valid for two
34 years, after which time the short-term rental host may renew his or her
35 registration in a manner prescribed by the department of state. The
36 department of state may revoke the registration of a short-term rental
37 host upon a determination that the short-term rental host has violated
38 any provision of this article at least three times in two calendar
39 years, and may determine that the short-term rental host shall be ineli-
40 gible for registration for a period of up to twelve months from the date
41 of such determination or at the request of a municipality when such
42 municipality requests such revocation due to illegal occupancy. Listing
43 or using a dwelling unit, or portion thereof, as a short-term residen-
44 tial rental unit without current, valid registration shall be unlawful
45 and shall make persons who list or use such unit ineligible for regis-
46 tration for a period of twelve months from the date a determination is
47 made that a violation has occurred.

48 (b) A short-term rental host shall include their current, valid regis-
49 tration number on all offerings, listings or advertisements for short-
50 term rental guest stays.

51 (c) A tenant, or other person that does not own a unit that is used as
52 a short-term rental unit but is in valid legal possession of a short-
53 term residential rental unit, shall not qualify for registration if they
54 are not the permanent occupant of the dwelling unit in question and have
55 not been granted permission in writing by the owner for its short-term

1 rental, to be verified by the department of state or any municipality
2 with its own registration system.

3 (d) The department of state shall make available to platforms the
4 data necessary to allow booking platforms to verify the registration
5 status of a short-term residential rental unit and that the unit is
6 associated with the short-term rental host who registered the unit.

7 (e) The short-term rental host shall pay application and renewal fees
8 in an amount to be established by the department of state.

9 (f) There shall be a fee for the use of the electronic verification
10 system in an amount to be established by the department of state. Such
11 fee shall not exceed the cost to build, operate, and maintain such
12 system.

13 2. Notwithstanding the provisions of any other law or administrative
14 action to the contrary, it shall be unlawful for a booking service to
15 collect a fee for facilitating booking transactions for short-term resi-
16 dential rental units located in this state without first registering
17 with the department of state. Accordingly, booking services shall adhere
18 to the following, in addition to other regulations established by the
19 department, as conditions of such registration:

20 (a) Booking services shall provide to the department on a quarterly
21 basis, in a form and manner to be determined by the department, the
22 report developed and maintained by the booking service in accordance
23 with subdivision four of section twenty-one of this article. The depart-
24 ment shall share this report with county, city, town, or village govern-
25 ments and shall make such reports available to local municipal enforce-
26 ment agencies when lawfully requested.

27 (b) A booking service shall provide agreement in writing to the
28 department that it will:

29 (i) Obtain written consent from all short-term rental hosts intending
30 to utilize their platform, for short-term residential rental units
31 located in this state, for the disclosure of the information pursuant to
32 subdivision four of section twenty-one of this article, in accordance
33 with paragraph (a) of this subdivision; and

34 (ii) Furnish the information identified pursuant to subdivision four
35 of section twenty-one of this article, in accordance with paragraph (a)
36 of this subdivision.

37 3. The department of state shall set a fee for short-term residential
38 rental unit and booking service registration with the department.

39 § 23. Exceptions. Notwithstanding the provisions of any other law to
40 the contrary, this article shall not apply to:

41 1. Incidental and occasional occupancy of such dwelling unit for
42 fewer than thirty consecutive days by other persons when the permanent
43 occupants are temporarily absent for personal reasons, such as vacation
44 or medical treatment, provided that there is no monetary compensation
45 paid to the permanent occupants for such occupancy; or

46 2. A municipality which does not allow short-term residential rentals;
47 provided, however, that such municipality shall request an exception
48 from this article; or

49 3. Temporary housing or lodging permitted by the department of health.

50 § 24. Penalties. Notwithstanding the provisions of any other law to
51 the contrary:

52 1. Any booking service which collects a fee related to booking a unit
53 as a short-term rental, where such unit is not registered in accordance
54 with this article, shall be fined two hundred dollars per violation per
55 day. Each day's failure to comply with a notice of violation or any
56 other order shall constitute a separate violation. The secretary of

1 state or their designee may also seek an injunction from a court of
2 competent jurisdiction prohibiting the collection of any fees relating
3 to the offering or renting of the unit as a short-term residential
4 rental.

5 2. Any person who offers a short-term residential rental unit without
6 registering with the department of state or municipal registration
7 system, or any person who offers an eligible short-term residential
8 rental unit as a short-term rental while the unit's registration on the
9 short-term residential rental unit registry is suspended, shall be fined
10 two hundred dollars per violation per day. Each day's failure to comply
11 with a notice of violation or any other order shall constitute a sepa-
12 rate violation.

13 3. Any person who fails to comply with any notice of violation or
14 other order issued pursuant to this article by the department of state
15 for a violation of any provision of this article shall be fined two
16 hundred dollars per violation per day. Each day's failure to comply with
17 a notice of violation or any other order shall constitute a separate
18 violation.

19 § 24-a. Enforcement. 1. The provisions of this article may be enforced
20 in accordance with article eight of this chapter.

21 2. The department of state may enter into agreements with a booking
22 service for assistance in enforcing the provisions of this section,
23 including but not limited to an agreement whereby the booking service
24 agrees to remove a listing from its platform that is deemed ineligible
25 for use as a short-term residential rental unit under the provisions of
26 this article, and whereby the booking service agrees to prohibit a
27 short-term rental host from listing any listing without a valid regis-
28 tration number.

29 3. The attorney general shall be authorized to bring an action for a
30 violation of this article for any such violations occurring in the
31 state.

32 4. A municipality that does not have its own registration system shall
33 be entitled to bring an action for a violation of this article for any
34 such violations of this article occurring in the municipality, after
35 notifying the attorney general.

36 § 24-b. Data sharing. Booking services shall provide to the depart-
37 ment of state and municipalities, on a monthly basis, an electronic
38 report, in a format determined by the department of state of the list-
39 ings maintained, authorized, facilitated or advertised by the booking
40 service within the state for the applicable reporting period. The report
41 shall include the registration number, and a breakdown of where the
42 listings are located, whether the listing is for a partial unit or a
43 whole unit, and shall include the number of nights each unit was
44 reported as occupied during the applicable reporting period.

45 § 2. The multiple dwelling law is amended by adding a new article 2-A
46 to read as follows:

47 ARTICLE 2-A

48 SHORT-TERM RESIDENTIAL RENTAL UNITS

49 Section 20. Definitions.

50 21. Short-term residential rental units; regulation.

51 22. Registration.

52 23. Exceptions.

53 24. Penalties.

54 24-a. Enforcement.

55 24-b. Data sharing.

1 § 20. Definitions. For the purposes of this article, the following
2 terms shall have the following meanings:

3 1. "Short-term residential rental unit" means an entire dwelling unit,
4 or a room, group of rooms, other living or sleeping space, or any other
5 space within a dwelling, made available for rent by guests for less than
6 thirty consecutive days, where the unit is offered for tourist or tran-
7 sient use by the short-term rental host of the residential unit.

8 2. "Short-term rental host" means a person in valid legal possession
9 of a short-term rental unit who rents such unit to guests.

10 3. "Booking service" means a person or entity who, directly or indi-
11 rectly:

12 (a) provides one or more online, computer or application-based plat-
13 forms that individually or collectively can be used to:

14 (i) list or advertise offers for short-term rentals, and

15 (ii) either accept such offers, or reserve or pay for such rentals;
16 and

17 (b) charges, collects or receives a fee for the use of such a platform
18 or for provision of any service in connection with a short-term rental.
19 A booking service shall not be construed to include a platform that
20 solely lists or advertises offers for short-term rentals.

21 § 21. Short-term residential rental units; regulation. 1. A short-term
22 rental host may operate a dwelling unit as a short-term residential
23 rental unit provided such dwelling unit:

24 (a) is registered in accordance with section twenty-two of this arti-
25 cle;

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

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

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

32 (e) has a working fire-extinguisher; and

33 (f) is insured by an insurer licensed to write insurance in this state
34 or procured by a duly licensed excess line broker pursuant to section
35 two thousand one hundred eighteen of the insurance law for at least the
36 value of the dwelling, plus a minimum of three hundred thousand dollars
37 coverage for third party claims of property damage or bodily injury that
38 arise out of the operation of a short-term rental unit. Notwithstanding
39 any other provision of law, no insurer shall be required to provide such
40 coverage.

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

44 3. Short-term rental hosts shall maintain records related to guest
45 stays for two years following the end of the calendar year in which an
46 individual rental stay occurred, including the date of each stay and
47 number of guests, the cost for each stay, including relevant tax, and
48 records related to their registration as short-term rental hosts with
49 the department of state. As a requirement for registration under section
50 twenty-two of this article, hosts shall provide these records to the
51 department of state on an annual basis. The department shall share this
52 report with county, city, town, or village governments and shall make
53 such reports available to local municipal enforcement agencies upon
54 request.

55 4. Notwithstanding the provisions of any other law or administrative
56 action to the contrary, booking services shall develop and maintain a

1 report related to short-term rental unit guest stays that the booking
2 service has facilitated in the state for two years following the end of
3 the calendar year in which an individual rental stay occurred. The
4 report shall include the dates of each stay and the number of guests,
5 the cost for each stay, including relevant tax, the physical address,
6 including any unit designation, of each short-term rental unit booked,
7 the full legal name of each short-term rental unit's host, and each
8 short-term rental unit's registration number. In the event a booking
9 service does not adhere to subdivision two of section twenty-two of this
10 article, or more information is deemed necessary by the department of
11 state, the department may access this report and/or all relevant records
12 from a booking service in response to valid legal process. The depart-
13 ment shall share this report and/or records with county, city, town, or
14 village governments and shall make such reports available to local
15 municipal enforcement agencies when lawfully requested.

16 5. It shall be unlawful for a booking service to collect a fee for
17 facilitating booking transactions for short-term residential rental
18 units located in this state if the short-term rental unit and its owner
19 or tenant have not been issued a current, valid registration by the
20 department of state or an applicable municipality.

21 6. The provisions of this article shall apply to all short-term resi-
22 dential rental units in the state; provided, however, that a munici-
23 pality that has its own short-term residential rental unit registry may
24 continue such registry and all short-term residential rental units in
25 such municipality shall be required to be registered with such municipal
26 registry and shall not be required to register with the department of
27 state. Municipalities with short-term residential rental unit registries
28 shall maintain the authority to manage such registries; provided, howev-
29 er, that such municipalities shall provide information on short-term
30 residential rental units registered within such municipality to the
31 department of state, as required by the department, in order for the
32 department to maintain a current database of all short-term residential
33 units registered within the state. Municipalities with short-term resi-
34 dential rental unit registries shall not be subject to the regulation
35 requirements of this section and may establish registration requirements
36 and regulations in such municipality which may differ from the require-
37 ments of this section.

38 § 22. Registration. 1. Short-term rental hosts shall be required to
39 register a short-term residential rental unit with the department of
40 state or with the municipality where such short-term residential unit is
41 located if such municipality has a registration system; provided, howev-
42 er, that the department of state shall not accept an application to
43 register a short-term residential rental unit for a unit that is located
44 in a municipality which has its own registration system and that has
45 notified the department of state of such registration system.

46 (a) Registration with the department of state shall be valid for two
47 years, after which time the short-term rental host may renew his or her
48 registration in a manner prescribed by the department of state. The
49 department of state may revoke the registration of a short-term rental
50 host upon a determination that the short-term rental host has violated
51 any provision of this article at least three times in two calendar
52 years, and may determine that the short-term rental host shall be ineli-
53 gible for registration for a period of up to twelve months from the date
54 of such determination or at the request of a municipality when such
55 municipality requests such revocation due to illegal occupancy. Listing
56 or using a dwelling unit, or portion thereof, as a short-term residen-

tial rental unit without current, valid registration shall be unlawful and shall make persons who list or use such unit ineligible for registration for a period of twelve months from the date a determination is made that a violation has occurred.

(b) A short-term rental host shall include their current, valid registration number on all offerings, listings or advertisements for short-term rental guest stays.

(c) A tenant, or other person that does not own a unit that is used as a short-term rental unit but is in valid legal possession of a short-term residential rental unit, shall not qualify for registration if they are not the permanent occupant of the dwelling unit in question and have not been granted permission in writing by the owner for its short-term rental, to be verified by the department of state or any municipality with its own registration system.

(d) The department of state shall make available to platforms the data necessary to allow booking platforms to verify the registration status of a short-term residential rental unit and that the unit is associated with the short-term rental host who registered the unit.

(e) The short-term rental host shall pay application and renewal fees in an amount to be established by the department of state.

(f) There shall be a fee for the use of the electronic verification system in an amount to be established by the department of state. Such fee shall not exceed the cost to build, operate, and maintain such system.

2. Notwithstanding the provisions of any other law or administrative action to the contrary, it shall be unlawful for a booking service to collect a fee for facilitating booking transactions for short-term residential rental units located in this state without first registering with the department of state. Accordingly, booking services shall adhere to the following, in addition to other regulations established by the department, as conditions of such registration:

(a) Booking services shall provide to the department on a quarterly basis, in a form and manner to be determined by the department, the report developed and maintained by the booking service in accordance with subdivision four of section twenty-one of this article. The department shall share this report with county, city, town, or village governments and shall make such reports available to local municipal enforcement agencies when lawfully requested.

(b) A booking service shall provide agreement in writing to the department that it will:

(i) Obtain written consent from all short-term rental hosts intending to utilize their platform, for short-term residential rental units located in this state, for the disclosure of the information pursuant to subdivision four of section twenty-one of this article, in accordance with paragraph (a) of this subdivision; and

(ii) Furnish the information identified pursuant to subdivision four of section twenty-one of this article, in accordance with paragraph (a) of this subdivision.

3. The department of state shall set a fee for short-term residential rental unit and booking service registration with the department.

§ 23. Exceptions. Notwithstanding the provisions of any other law to the contrary, this article shall not apply to:

1. Incidental and occasional occupancy of such dwelling unit for fewer than thirty consecutive days by other persons when the permanent occupants are temporarily absent for personal reasons, such as vacation or

1 medical treatment, provided that there is no monetary compensation paid
2 to the permanent occupants for such occupancy; or

3 2. A municipality which does not allow short-term residential rentals;
4 provided, however, that such municipality shall request an exception
5 from this article; or

6 3. Temporary housing or lodging permitted by the department of health.

7 § 24. Penalties. Notwithstanding the provisions of any other law to
8 the contrary:

9 1. Any booking service which collects a fee related to booking a unit
10 as a short-term rental, where such unit is not registered in accordance
11 with this article, shall be fined two hundred dollars per violation per
12 day. Each day's failure to comply with a notice of violation or any
13 other order shall constitute a separate violation. The secretary of
14 state or their designee may also seek an injunction from a court of
15 competent jurisdiction prohibiting the collection of any fees relating
16 to the offering or renting of the unit as a short-term residential
17 rental.

18 2. Any person who offers a short-term residential rental unit without
19 registering with the department of state or municipal registration
20 system, or any person who offers an eligible short-term residential
21 rental unit as a short-term rental while the unit's registration on the
22 short-term residential rental unit registry is suspended, shall be fined
23 two hundred dollars per violation per day. Each day's failure to comply
24 with a notice of violation or any other order shall constitute a sepa-
25 rate violation.

26 3. Any person who fails to comply with any notice of violation or
27 other order issued pursuant to this article by the department of state
28 for a violation of any provision of this article shall be fined two
29 hundred dollars per violation per day. Each day's failure to comply with
30 a notice of violation or any other order shall constitute a separate
31 violation.

32 § 24-a. Enforcement. 1. The provisions of this article may be enforced
33 in accordance with article eight of this chapter.

34 2. The department of state may enter into agreements with a booking
35 service for assistance in enforcing the provisions of this section,
36 including but not limited to an agreement whereby the booking service
37 agrees to remove a listing from its platform that is deemed ineligible
38 for use as a short-term residential rental unit under the provisions of
39 this article, and whereby the booking service agrees to prohibit a
40 short-term rental host from listing any listing without a valid regis-
41 tration number.

42 3. The attorney general shall be authorized to bring an action for a
43 violation of this article for any such violations occurring in the
44 state.

45 4. A municipality that does not have its own registration system shall
46 be entitled to bring an action for a violation of this article for any
47 such violations of this article occurring in the municipality, after
48 notifying the attorney general.

49 § 24-b. Data sharing. Booking services shall provide to the department
50 of state and municipalities, on a monthly basis, an electronic report,
51 in a format determined by the department of state of the listings main-
52 tained, authorized, facilitated or advertised by the booking service
53 within the state for the applicable reporting period. The report shall
54 include the registration number, and a breakdown of where the listings
55 are located, whether the listing is for a partial unit or a whole unit,

1 and shall include the number of nights each unit was reported as occu-
2 piated during the applicable reporting period.

3 § 3. Subdivision (c) of section 1101 of the tax law, as added by chap-
4 ter 93 of the laws of 1965, paragraphs 2, 3, 4 and 6 as amended by
5 section 2 and paragraph 8 as added by section 3 of part AA of chapter 57
6 of the laws of 2010, and paragraph 5 as amended by chapter 575 of the
7 laws of 1965, is amended to read as follows:

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

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

16 (2) Occupancy. The use or possession, or the right to the use or
17 possession, of any room in a hotel. "Right to the use or possession"
18 includes the rights of a room remarketer as described in paragraph eight
19 of this subdivision.

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

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

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

32 (6) Rent. The consideration received for occupancy, including any
33 service or other charge or amount required to be paid as a condition for
34 occupancy, valued in money, whether received in money or otherwise and
35 whether received by the operator ~~or~~, a booking service, a room remark-
36 eter or another person on behalf of ~~either~~ any of them.

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

40 (8) Room remarketer. A person who reserves, arranges for, conveys, or
41 furnishes occupancy, whether directly or indirectly, to an occupant for
42 rent in an amount determined by the room remarketer, directly or indi-
43 rectly, whether pursuant to a written or other agreement. Such person's
44 ability or authority to reserve, arrange for, convey, or furnish occu-
45 pancy, directly or indirectly, and to determine rent therefor, shall be
46 the "rights of a room remarketer". A room remarketer is not a permanent
47 resident with respect to a room for which such person has the rights of
48 a room remarketer. This term does not include a booking service unless
49 such service otherwise meets this definition.

50 (9) Short-term rental unit. A short-term residential unit as defined
51 in section twenty of the multiple residence law or in section twenty of
52 the multiple dwelling law which is registered with the department of
53 state or a municipal registration system, which includes but is not
54 limited to title twenty-six of the administrative code of the city of
55 New York.

(10) Booking service. (i) A person or entity who, directly or indirectly:

(A) provides one or more online, computer or application-based platforms that individually or collectively can be used to:

(I) list or advertise offers for rental space in a hotel, and

(II) either accept such offers, or reserve or pay for such rentals; and

(B) charges, collects or receives a fee for the use of such a platform or for provision of any service in connection with rental space in a hotel.

(ii) A booking service shall not include a person or entity who facilitates bookings of hotel rooms solely on behalf of affiliated persons or entities, including franchisees, operating under a shared hotel brand.

§ 4. 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 booking service, 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.

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

(1) "Persons required to collect tax" or "person required to collect any tax imposed by this article" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; every operator of a hotel; ~~and~~ every marketplace provider with respect to sales of tangible personal property it facilitates as described in paragraph one of subdivision (e) of section eleven hundred one of this article; and booking services unless relieved of such obligation pursuant to paragraph three of subdivision (m) of section eleven hundred thirty-two of this part. Said terms shall also include any officer, director or employee of a corporation or of a dissolved corporation, any employee of a partnership, any employee or manager of a limited liability company, or any employee of an individual proprietorship who as such officer, director, employee or manager is under a duty to act for such corporation, partnership, limited liability company or individual proprietorship in complying with any requirement of this article, or has so acted; and any member of a partnership or limited liability company. Provided, however, that any person who is a vendor solely by reason of clause (D) or (E) of subparagraph (i) of paragraph (8) of subdivision (b) of section eleven hundred one of this article shall not be a "person required to collect any tax imposed by this article" until twenty days after the date by which such person is required to file a certificate of registration pursuant to section eleven hundred thirty-four of this part.

§ 6. Section 1132 of the tax law is amended by adding a new subdivision (m) to read as follows:

(m) (1) A booking service shall be required to (i) collect from the occupants the applicable taxes arising from such occupancies; (ii) comply with all the provisions of this article and article twenty-nine of this chapter and any regulations adopted pursuant thereto; (iii) register to collect tax under section eleven hundred thirty-four of this part; and (iv) retain records and information as required by the commissioner and cooperate with the commissioner to ensure the proper

1 collection and remittance of tax imposed, collected, or required to be
2 collected under this article and article twenty-nine of this chapter.

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

13 (3) An operator of a hotel is not a person required to collect tax for
14 purposes of this part with respect to taxes imposed upon occupancies of
15 hotels if:

16 (i) the operator of the hotel can show that the occupancy was facili-
17 tated by a booking service who is registered to collect tax pursuant to
18 section eleven hundred thirty-four of this part; and

19 (ii) the operator of the hotel accepted from the booking service a
20 properly completed certificate of collection in a form prescribed by the
21 commissioner certifying that the booking service has agreed to assume
22 the tax collection and filing responsibilities of the operator of the
23 hotel; and

24 (iii) any failure of the booking service to collect the proper amount
25 of tax with respect to such occupancy was not the result of the operator
26 of the hotel providing incorrect information to the booking service,
27 whether intentional or unintentional.

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

39 (4) The commissioner may, in his or her discretion develop standard
40 language, or approve language developed by a booking service, in which
41 the booking service obligates itself to collect the tax on behalf of all
42 the operators of hotels.

43 (5) In the event an operator of a hotel is a room remarketer, and all
44 other provisions of this subdivision are met such that a booking service
45 is obligated to collect tax, and does in fact collect tax as evidenced
46 by the books and records of such booking service, then the provisions of
47 subdivision (e) of section eleven hundred nineteen of this article shall
48 be applicable.

49 § 7. Paragraph 4 of subdivision (a) of section 1136 of the tax law, as
50 amended by section 5 of part G of chapter 59 of the laws of 2019, is
51 amended to read as follows:

52 (4) The return of a vendor of tangible personal property or services
53 shall show such vendor's receipts from sales and the number of gallons
54 of any motor fuel or diesel motor fuel sold and also the aggregate value
55 of tangible personal property and services and number of gallons of such
56 fuels sold by the vendor, the use of which is subject to tax under this

1 article, and the amount of tax payable thereon pursuant to the
2 provisions of section eleven hundred thirty-seven of this part. The
3 return of a recipient of amusement charges shall show all such charges
4 and the amount of tax thereon, and the return of an operator required to
5 collect tax on rents shall show all rents received or charged and the
6 amount of tax thereon. The return of a marketplace seller shall exclude
7 the receipts from a sale of tangible personal property facilitated by a
8 marketplace provider if, in regard to such sale: (A) the marketplace
9 seller has timely received in good faith a properly completed certifi-
10 cate of collection from the marketplace provider or the marketplace
11 provider has included a provision approved by the commissioner in the
12 publicly-available agreement between the marketplace provider and the
13 marketplace seller as described in subdivision one of section eleven
14 hundred thirty-two of this part, and (B) the information provided by the
15 marketplace seller to the marketplace provider about such tangible
16 personal property is accurate. The return of a short-term rental host
17 shall exclude the rent from occupancy of a short-term rental unit facil-
18 itated by a booking service if, in regard to such sale: (A) the short-
19 term rental host has timely received in good faith a properly completed
20 certificate of collection from the booking service or the booking
21 service has included a provision approved by the commissioner in the
22 publicly-available agreement between the booking service and the short-
23 term rental host as described in subdivision (m) of section eleven
24 hundred thirty-two of this part, and (B) the information provided by the
25 short-term rental host to the booking service about such rent and such
26 occupancy is accurate.

27 § 8. Section 1142 of the tax law is amended by adding a new subdivi-
28 sion 16 to read as follows:

29 16. To publish a list on the department's website of booking services
30 whose certificates of authority have been revoked and, if necessary to
31 protect sales tax revenue, provide by regulation or otherwise that a
32 short-term rental unit operator will be relieved of the requirement to
33 register and the duty to collect tax on the rent for occupancy of a
34 short-term rental facilitated by a booking service provider only if, in
35 addition to the conditions prescribed by paragraph two of subdivision
36 (m) of section eleven hundred thirty-two and paragraph six of subdivi-
37 sion (a) of section eleven hundred thirty-four of this part being met,
38 such booking service is not on such list at the commencement of the
39 quarterly period covered thereby.

40 § 9. Subpart A of part 1 of article 29 of the tax law is amended by
41 adding a new section 1200 to read as follows:

42 § 1200. Definition. For the purposes of this article "hotel" shall
43 mean a building or portion of such building which is regularly used and
44 kept open as such for the lodging of guests, including: (a) an apartment
45 hotel, (b) a motel, (c) a boarding house or club, whether or not meals
46 are served, and (d) short-term residential rental units as defined in
47 subdivision one of section twenty of the multiple residence law or in
48 subdivision one of section twenty of the multiple dwelling law.

49 § 10. Notwithstanding any other provisions of law to the contrary, a
50 county, city, town, or village government may enact a local law prohib-
51 iting or further limiting the listing or use of dwelling units, or
52 portions thereof, as short-term residential rental units.

53 § 11. Severability. If any provision of this act, or any application
54 of any provision of this act, is held to be invalid, that shall not
55 affect the validity or effectiveness of any other provision of this act,
56 or of any other application of any provision of this act, which can be

1 given effect without that provision or application; and to that end, the
2 provisions and applications of this act are severable.
3 § 12. This act shall take effect on the one hundred twentieth day
4 after it shall have become a law.