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4130--B

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IN ASSEMBLY

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Introduced by M. of A. FAHY, LEVENBERG, BURDICK, SIMON, KELLES, WOERNER, CLARK, SHIMSKY, SIMONE, GUNTHER, LUNSFORD, PAULIN, THIELE, GALLAGHER, STIRPE, JACOBSON, BARRETT, LUPARDO, L. ROSENTHAL, SHRESTHA -- Multi-Sponsored by -- M. of A. DAVILA -- read once and referred to the Committee on Housing -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Housing in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property 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 real property law is amended by adding a new article
2 12-D to read as follows:

3 ARTICLE 12-D

4 SHORT-TERM RESIDENTIAL RENTAL UNITS

5 Section 447-a. Definitions.

6 447-b. Short-term residential rental units; regulation.

7 447-c. Registration.

8 447-d. Exceptions.

9 447-e. Penalties.

10 447-f. Enforcement.

11 447-g. Data sharing.

12 § 447-a. Definitions. For the purposes of this article, the following
13 terms shall have the following meanings:

14 1. "Short-term residential rental unit" means an entire dwelling unit,
15 or a room, group of rooms, other living or sleeping space, or any other
16 space within a dwelling, made available for rent by guests for less than

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

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1 thirty consecutive days, where the unit is offered for tourist or tran-
2 sient use by the short-term rental host of the residential unit.

3 2. "Short-term rental host" means a person or entity in lawful
4 possession of a short-term rental unit who rents such unit to guests in
5 accordance with this article.

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

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

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

11 (ii) either accept such offers, or reserve or pay for such rentals;
12 and

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

17 § 447-b. Short-term residential rental units; regulation. 1. A short-
18 term rental host may operate a dwelling unit as a short-term residential
19 rental unit provided such dwelling unit:

20 (a) is registered in accordance with section four hundred forty-sev-
21 en-c of this article;

22 (b) is not used to provide single room occupancy as defined by subdi-
23 vision forty-four of section four of the multiple residence law and
24 subdivision sixteen of section four of the multiple dwelling law;

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

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

29 (e) has a working fire-extinguisher;

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

38 (g) is not subject to the emergency tenant protection act of nineteen
39 seventy-four, the rent stabilization law of nineteen sixty-nine, the
40 emergency housing rent control law, the local emergency housing rent
41 control act or otherwise regulated or supervised by a federal, state, or
42 local agency pursuant to any other law or rule or an agreement with such
43 federal, state, or local agency; and

44 (h) is not otherwise prohibited from operating as a short-term rental
45 unit by federal, state, or local law, rules, and regulations.

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

49 3. Short-term rental hosts shall maintain records related to guest
50 stays for two years following the end of the calendar year in which an
51 individual rental stay occurred, including the date of each stay and
52 number of guests, the cost for each stay, including relevant tax, and
53 records related to their registration as short-term rental hosts with
54 the department of state. As a requirement for registration under section
55 four hundred forty-seven-c of this article, hosts shall provide these
56 records to the department of state on an annual basis. The department

1 shall share this report with county, city, town, or village governments
2 and shall make such reports available to local municipal enforcement
3 agencies upon request. Where the booking service is the short-term
4 rental host, the short-term rental host may be exempt from providing
5 such report provided that the booking service includes all necessary
6 information required of a short-term rental host in the report required
7 pursuant to subdivision four of this section.

8 4. Booking services shall develop and maintain a report related to
9 short-term rental unit guest stays that the booking service has facili-
10 tated in the state for two years following the end of the calendar year
11 in which an individual rental stay occurred. The report shall include
12 the dates of each stay and the number of guests, the cost for each stay,
13 including relevant tax, the physical address, including any unit desig-
14 nation, of each short-term rental unit booked, the full legal name of
15 each short-term rental unit's host, and each short-term rental unit's
16 registration number. In the event a booking service does not adhere to
17 subdivision two of section four hundred forty-seven-c of this article,
18 or more information is deemed necessary by the department of state, the
19 department may access this report and all relevant records from a book-
20 ing service in response to valid legal process. The department shall
21 share this report and records with county, city, town, or village
22 governments and shall make such reports available to local municipal
23 enforcement agencies when lawfully requested. Reports and any records
24 provided to generate such reports shall not be made publicly available
25 without the redaction of the full legal name of each short-term rental
26 unit's host, the street name and number of the physical address of any
27 identified short-term rental unit and the unit's registration number.

28 5. It shall be unlawful for a booking service to collect a fee for
29 facilitating booking transactions for short-term residential rental
30 units located in this state if the booking service has not verified with
31 the department of state, or in cities with a population over one million
32 with such city, the short-term rental unit and its owner or tenant have
33 been issued a current, valid registration by the department of state.

34 6. The provisions of this article shall apply to all short-term resi-
35 dential rental units in the state; provided, however, that a municipi-
36 ality that has its own short-term residential rental unit registry as
37 of the effective date of this article may continue such registry and all
38 short-term residential rental units in such municipality shall be
39 required to be registered with the department of state. In a city with a
40 population over one million, all short-term residential rental units
41 shall only register with such city as provided in a local law, rule, or
42 regulation. Municipalities with short-term residential rental unit
43 registries as of the effective date of this article shall maintain the
44 authority to manage such registries and to collect fines for
45 violations related to the registration of short-term residential rental
46 units with such municipal registry. A city with a population over one
47 million that has a short-term residential rental registry shall provide
48 information on short-term residential rental units registered within
49 such municipality to the department of state, on a quarterly basis of
50 each calendar year, in order for the department to maintain a current
51 database of all short-term residential units registered within the
52 state. Municipalities with short-term residential rental unit registries
53 as of the effective date of this article may establish registration
54 requirements and regulations in such municipality in addition to the
55 requirements of this section. The department of state shall share the
56 report required pursuant to subdivision three of this section with muni-

1 cipalities with short-term residential rental unit registries upon
2 request. No municipality shall create its own short-term rental residen-
3 tial rental unit registry after the effective date of this article.

4 § 447-c. Registration. 1. Short-term rental hosts shall be required to
5 register a short-term residential rental unit with the department of
6 state.

7 (a) Registration with the department of state shall be valid for two
8 years, after which time the short-term rental host may renew the regis-
9 tration in a manner prescribed by the department of state. The depart-
10 ment of state may revoke the registration of a short-term rental host
11 upon a determination that the short-term rental host has violated any
12 provision of this article at least three times in two calendar years,
13 and may determine that the short-term rental host shall be ineligible
14 for registration for a period of up to twelve months from the date of
15 such determination or at the request of a municipality when such munici-
16 pality requests such revocation due to illegal occupancy. Listing or
17 offering a dwelling unit, or portion thereof, as a short-term residen-
18 tial rental unit without current, valid registration shall be unlawful
19 and shall make persons who list or offer such unit ineligible for regis-
20 tration for a period of twelve months from the date a determination is
21 made that a violation has occurred.

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

25 (c) A tenant, or other person that does not own a unit that is used as
26 a short-term rental unit but is in lawful possession of a short-term
27 residential rental unit, shall not qualify for registration if they are
28 not the permanent occupant of the dwelling unit in question and have not
29 been granted permission in writing by the owner for its short-term
30 rental. Proof of written consent by the owner shall be provided to and
31 verified by the department of state or any municipality with its own
32 registration system before the issuing or renewal of a registration
33 number.

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

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

41 (f) Such registration fee shall include a fee for the use of the elec-
42 tronic verification system in an amount to be established by the depart-
43 ment of state which shall not exceed the cost to build, operate, and
44 maintain such system.

45 2. It shall be unlawful for a booking service to collect a fee for
46 facilitating booking transactions for short-term residential rental
47 units located in this state without such booking service first regis-
48 tering with the department of state. Accordingly, booking services shall
49 adhere to the following, in addition to other regulations established by
50 the department, as conditions of such registration:

51 (a) Booking services shall provide to the department on a quarterly
52 basis, in a form and manner to be determined by the department, the
53 report developed and maintained by the booking service in accordance
54 with subdivision four of section four hundred forty-seven-b of this
55 article. The department shall share this report with county, city, town,

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

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

5 (i) Obtain written consent from all short-term rental hosts intending
6 to utilize their platform, for short-term residential rental units
7 located in this state, for the disclosure of the information pursuant to
8 subdivision four of section four hundred forty-seven-b of this article,
9 in accordance with paragraph (a) of this subdivision; and

10 (ii) Furnish the information identified pursuant to subdivision four
11 of section four hundred forty-seven-b of this article, in accordance
12 with paragraph (a) of this subdivision.

13 3. The department of state shall set a fee for booking service regis-
14 tration with the department.

15 § 447-d. Exceptions. This article shall not apply to:

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

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

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

25 § 447-e. Penalties. 1. Any booking service which collects a fee
26 related to booking a unit as a short-term rental where such unit is not
27 registered in accordance with this article shall be fined in accordance
28 with subdivisions four and five of this section. The secretary of state
29 or their designee may also seek an injunction from a court of competent
30 jurisdiction prohibiting the collection of any fees relating to the
31 offering or renting of the unit as a short-term residential rental.

32 2. Any person who offers a short-term residential rental unit without
33 registering with the department of state, or any person who offers an
34 eligible short-term residential rental unit as a short-term rental while
35 the unit's registration on the short-term residential rental unit regis-
36 try is suspended, shall be fined in accordance with subdivisions four
37 and five of this section.

38 3. Any person who fails to comply with any notice of violation or
39 other order issued pursuant to this article by the department of state
40 for a violation of any provision of this article shall be fined in
41 accordance with subdivisions four and five of this section.

42 4. A short-term rental host that violates the requirements of this
43 article shall receive a warning notice issued, without penalty, by the
44 department of state upon the first and second violation. The warning
45 notice shall detail actions to be taken to cure the violation. For a
46 third violation a fine up to two hundred dollars shall be imposed. For
47 each subsequent violation, a fine of up to five hundred dollars per day
48 shall be imposed. Upon the issuance of a violation, a seven-day period
49 to cure the violation shall be granted. During such cure period, no
50 further fines shall be accumulated against the short-term rental host,
51 except where a new violation is related to a different short-term rental
52 unit.

53 5. A booking service that violates the requirements of this article
54 shall be issued a fine of up to five hundred dollars per day, per
55 violation, until such violation is cured.

1 6. In a municipality that has its own registration system, the munici-
2 pality may establish and effectuate its own penalty system.

3 § 447-f. Enforcement. 1. The provisions of this article may be
4 enforced in accordance with article eight of the multiple dwelling law
5 or article eight of the multiple residence law, as applicable in the
6 municipality where the short-term residential unit is located.

7 2. The department of state may enter into agreements with a booking
8 service for assistance in enforcing the provisions of this section,
9 including but not limited to an agreement whereby the booking service
10 agrees to remove a listing from its platform that is deemed ineligible
11 for use as a short-term residential rental unit under the provisions of
12 this article, and whereby the booking service agrees to prohibit a
13 short-term rental host from listing any listing without a valid regis-
14 tration number.

15 3. The attorney general shall be authorized to bring an action for a
16 violation of this article for any such violations occurring in the
17 state, regardless of the registration system in place within the appli-
18 cable jurisdiction.

19 4. A municipality shall be entitled to bring an action for a violation
20 of this article for any such violations of this article occurring in the
21 municipality, and may notify the attorney general.

22 § 447-g. Data sharing. Booking services shall provide to the depart-
23 ment of state, on a monthly basis, an electronic report, in a format
24 determined by the department of state of the listings maintained,
25 authorized, facilitated or advertised by the booking service within the
26 state for the applicable reporting period. The report shall include the
27 registration number, and a breakdown of where the listings are located,
28 whether the listing is for a partial unit or a whole unit, and shall
29 include the number of nights each unit was reported as occupied during
30 the applicable reporting period. The department of state shall provide
31 such report to all municipalities where listings are located on a month-
32 ly basis, provided, the department of state shall only provide to each
33 municipality the part of the report with information on listings in such
34 municipality.

35 § 2. 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 to read as follows:

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

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

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

8 (6) Rent. The consideration received for occupancy, including any
9 service or other charge or amount required to be paid as a condition for
10 occupancy, valued in money, whether received in money or otherwise and
11 whether received by the operator [~~or~~], a booking service, a room remark-
12 eter or another person on behalf of [~~either~~] any of them.

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

16 (8) Room remarketer. A person who reserves, arranges for, conveys, or
17 furnishes occupancy, whether directly or indirectly, to an occupant for
18 rent in an amount determined by the room remarketer, directly or indi-
19 rectly, whether pursuant to a written or other agreement. Such person's
20 ability or authority to reserve, arrange for, convey, or furnish occu-
21 pancy, directly or indirectly, and to determine rent therefor, shall be
22 the "rights of a room remarketer". A room remarketer is not a permanent
23 resident with respect to a room for which such person has the rights of
24 a room remarketer. This term does not include a booking service unless
25 such service otherwise meets this definition.

26 (9) Short-term rental unit. A short-term residential unit as defined
27 in section four hundred forty-seven-a of the real property law which is
28 registered with the department of state or a municipal registration
29 system, which includes but is not limited to title twenty-six of the
30 administrative code of the city of New York.

31 (10) Booking service. (i) A person or entity who, directly or indi-
32 rectly:

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

35 (I) list or advertise offers for rental of a short-term rental unit,
36 or space in a short-term rental unit, a type of a hotel as defined in
37 paragraph one of this subdivision, and

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

40 (B) charges, collects or receives a fee from a customer or host for
41 the use of such a platform or for provision of any service in connection
42 with the rental of a short-term rental unit, or space in a short-term
43 rental unit, a type of a hotel as defined in paragraph one of this
44 subdivision. For the purposes of this section, "customer" means an
45 individual or organization that purchases a stay at a short-term rental.

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

49 (iii) A booking service shall not include a person or entity who
50 facilitates bookings of hotel rooms and does not collect and retain the
51 rent paid for such occupancy, as defined by paragraph six of this subdivi-
52 vision.

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

55 (3) The rent for every occupancy of a room or rooms in a short-term
56 rental unit, or space in a short-term rental unit, a type of a hotel

1 offered for rent through a booking service, as defined in paragraph ten
2 of subdivision (c) of section eleven hundred one of this article,
3 regardless of whether it is furnished, limited to a single family occu-
4 pancy, or provides housekeeping, food, or other common hotel services,
5 including, but not limited to, entertainment or planned activities.

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

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

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

34 (m) (1) A booking service shall be required to (i) collect from the
35 occupants the applicable taxes arising from such occupancies; (ii)
36 comply with all the provisions of this article and article twenty-nine
37 of this chapter and any regulations adopted pursuant thereto; (iii)
38 register to collect tax under section eleven hundred thirty-four of this
39 part; and (iv) retain records and information as required by the commis-
40 sioner and cooperate with the commissioner to ensure the proper
41 collection and remittance of tax imposed, collected, or required to be
42 collected under this article and article twenty-nine of this chapter.

43 (2) In carrying out the obligations imposed under this section, a
44 booking service shall have all the duties, benefits, and entitlements of
45 a person required to collect tax under this article and article twenty-
46 nine of this chapter with respect to the occupancies giving rise to the
47 tax obligation, including the right to accept a certificate or other
48 documentation from an occupant substantiating an exemption or exclusion
49 from tax, as if such booking service were the operator of the hotel with
50 respect to such occupancy, including the right to receive the refund
51 authorized by subdivision (e) of this section and the credit allowed by
52 subdivision (f) of section eleven hundred thirty-seven of this part.

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

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

4 (ii) the operator of the hotel accepted from the booking service a
5 properly completed certificate of collection in a form prescribed by the
6 commissioner certifying that the booking service has agreed to assume
7 the tax collection and filing responsibilities of the operator of the
8 hotel; and

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

13 This provision shall be administered in a manner consistent with
14 subparagraph (i) of paragraph one of subdivision (c) of this section as
15 if a certificate of collection were a resale or exemption certificate
16 for purposes of such subparagraph, including with regard to the
17 completeness of such certificate of collection and the timing of its
18 acceptance by the operator of the hotel; provided however, that with
19 regard to any occupancies sold by an operator of the hotel that are
20 facilitated by a booking service who is affiliated with such operator,
21 the operator shall be deemed liable as a person under a duty to act for
22 such booking service for purposes of subdivision one of section eleven
23 hundred thirty-one of this part.

24 (4) The commissioner may, in the commissioner's discretion develop
25 standard language, or approve language developed by a booking service,
26 in which the booking service obligates itself to collect the tax on
27 behalf of all the operators of hotels.

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

34 § 6. Paragraph 4 of subdivision (a) of section 1136 of the tax law, as
35 amended by section 5 of part G of chapter 59 of the laws of 2019, is
36 amended to read as follows:

37 (4) The return of a vendor of tangible personal property or services
38 shall show such vendor's receipts from sales and the number of gallons
39 of any motor fuel or diesel motor fuel sold and also the aggregate value
40 of tangible personal property and services and number of gallons of such
41 fuels sold by the vendor, the use of which is subject to tax under this
42 article, and the amount of tax payable thereon pursuant to the
43 provisions of section eleven hundred thirty-seven of this part. The
44 return of a recipient of amusement charges shall show all such charges
45 and the amount of tax thereon, and the return of an operator required to
46 collect tax on rents shall show all rents received or charged and the
47 amount of tax thereon. The return of a marketplace seller shall exclude
48 the receipts from a sale of tangible personal property facilitated by a
49 marketplace provider if, in regard to such sale: (A) the marketplace
50 seller has timely received in good faith a properly completed certif-
51 icate of collection from the marketplace provider or the marketplace
52 provider has included a provision approved by the commissioner in the
53 publicly-available agreement between the marketplace provider and the
54 marketplace seller as described in subdivision one of section eleven
55 hundred thirty-two of this part, and (B) the information provided by the
56 marketplace seller to the marketplace provider about such tangible

1 personal property is accurate. The return of a short-term rental host
2 shall exclude the rent from occupancy of a short-term rental unit facil-
3 itated by a booking service if, in regard to such sale: (A) the short-
4 term rental host has timely received in good faith a properly completed
5 certificate of collection from the booking service or the booking
6 service has included a provision approved by the commissioner in the
7 publicly-available agreement between the booking service and the short-
8 term rental host as described in subdivision (m) of section eleven
9 hundred thirty-two of this part, and (B) the information provided by the
10 short-term rental host to the booking service about such rent and such
11 occupancy is accurate.

12 § 7. Section 1142 of the tax law is amended by adding a new subdivi-
13 sion 16 to read as follows:

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

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

27 § 1200. Definition. For the purposes of this article "hotel" shall
28 mean a building or portion of such building which is regularly used and
29 kept open as such for the lodging of guests, including: (a) an apartment
30 hotel, (b) a motel, (c) a boarding house or club, whether or not meals
31 are served, and (d) short-term residential rental units as defined in
32 subdivision one of section four hundred forty-seven-a of the real prop-
33 erty law.

34 § 9. Notwithstanding any other provisions of law to the contrary, a
35 county, city, town, or village government may enact a local law prohib-
36 iting or further limiting the listing or use of dwelling units, or
37 portions thereof, as short-term residential rental units.

38 § 10. Severability. If any provision of this act, or any application
39 of any provision of this act, is held to be invalid, that shall not
40 affect the validity or effectiveness of any other provision of this act,
41 or of any other application of any provision of this act, which can be
42 given effect without that provision or application; and to that end, the
43 provisions and applications of this act are severable.

44 § 11. This act shall take effect on the one hundred twentieth day
45 after it shall have become a law.