

# 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:

3 ARTICLE 2-A

4 SHORT-TERM RESIDENTIAL RENTAL UNITS

5 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.

LBD02793-03-3

1 (i) list or advertise offers for short-term rentals, and  
2 (ii) either accept such offers, or reserve or pay for such rentals;  
3 and  
4 (b) charges, collects or receives a fee for the use of such a platform  
5 or for provision of any service in connection with a short-term rental.  
6 A booking service shall not be construed to include a platform that  
7 solely lists or advertises offers for short-term rentals.

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

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

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

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

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

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

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

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

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

42 4. Notwithstanding the provisions of any other law or administrative  
43 action to the contrary, booking services shall develop and maintain a  
44 report related to short-term rental unit guest stays that the booking  
45 service has facilitated in the state for two years following the end of  
46 the calendar year in which an individual rental stay occurred. The  
47 report shall include the dates of each stay and the number of guests,  
48 the cost for each stay, including relevant tax, the physical address,  
49 including any unit designation, of each short-term rental unit booked,  
50 the full legal name of each short-term rental unit's host, and each  
51 short-term rental unit's registration number. In the event a booking  
52 service does not adhere to subdivision two of section twenty-two of this  
53 article, or more information is deemed necessary by the department of  
54 state, the department may access this report and/or all relevant records  
55 from a booking service in response to valid legal process. The depart-  
56 ment 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 subdivi-  
27 sion 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-

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

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

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

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

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

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

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

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

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

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

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

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

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

53 1. Incidental and occasional occupancy of such dwelling unit for fewer  
54 than thirty consecutive days by other persons when the permanent occu-  
55 pants 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 pi ed 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.

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

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

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

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

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

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

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

16 (3) The rent for every occupancy of a room or rooms in a hotel offered  
17 for rent through a booking service, as defined in paragraph ten of  
18 subdivision (c) of section eleven hundred one of this article, regard-  
19 less of whether it is furnished, limited to a single family occupancy,  
20 or provides housekeeping, food, or other common hotel services, includ-  
21 ing, but not limited to, entertainment or planned activities.

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

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

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

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