

STATE OF NEW YORK

4130--C

2023-2024 Regular Sessions

IN ASSEMBLY

February 9, 2023

Introduced by M. of A. FAHY, L. ROSENTHAL, LEVENBERG, BURDICK, SIMON, KELLES, WOERNER, CLARK, SHIMSKY, SIMONE, GUNTHER, LUNSFORD, PAULIN, THIELE, GALLAGHER, STIRPE, JACOBSON, BARRETT, LUPARDO, 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 -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- 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:

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

LBD02793-16-4

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

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

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

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

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

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

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

20 § 447-b. Short-term residential rental units; regulation. 1. A short-
21 term rental host may operate a dwelling unit as a short-term residential
22 rental unit provided such dwelling unit:

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

25 (b) is not used to provide single room occupancy as defined by subdivi-
26 sion forty-four of section four of the multiple residence law and
27 subdivision sixteen of section four of the multiple dwelling law;

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;

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

47 (h) is in compliance with any additional health and safety require-
48 ments established by the municipality; and

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

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

54 3. Short-term rental hosts shall maintain records related to guest
55 stays for two years following the end of the calendar year in which an
56 individual rental stay occurred, including the date of each stay and

1 number of guests, the cost for each stay, including relevant tax, and
2 records related to their registration as short-term rental hosts with
3 the department of state. As a requirement for registration under section
4 four hundred forty-seven-c of this article, hosts shall provide these
5 records to the department of state on an annual basis. The department
6 shall share this report with county, city, town, or village governments
7 and shall make such reports available to local municipal enforcement
8 agencies upon request. Where the booking service is the short-term
9 rental host, the short-term rental host may be exempt from providing
10 such report provided that the booking service includes all necessary
11 information required of a short-term rental host in the report required
12 pursuant to subdivision four of this section.

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

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

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

1 state. Municipalities with short-term residential rental unit registries
2 as of the effective date of this article may establish registration
3 requirements and regulations in such municipality in addition to the
4 requirements of this section. The department of state shall share the
5 report required pursuant to subdivision three of this section with muni-
6 cipalities with short-term residential rental unit registries upon
7 request. No municipality shall create its own short-term rental residen-
8 tial rental unit registry after the effective date of this article.

9 § 447-c. Registration. 1. Short-term rental hosts shall be required to
10 register a short-term residential rental unit with the department of
11 state.

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

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

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

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

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

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

50 2. It shall be unlawful for a booking service to collect a fee for
51 facilitating booking transactions for short-term residential rental
52 units located in this state without such booking service first register-
53 ing with the department of state. Accordingly, booking services shall
54 adhere to the following, in addition to other regulations established by
55 the department, as conditions of such registration:

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

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

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

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

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

20 § 447-d. Exceptions. This article shall not apply to:

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

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

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

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

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

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

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

1 except where a new violation is related to a different short-term rental
2 unit.

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

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

8 § 447-f. Enforcement. 1. The provisions of this article may be
9 enforced in accordance with article eight of the multiple dwelling law
10 or article eight of the multiple residence law, as applicable in the
11 municipality where the short-term residential unit is located.

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

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

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

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

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

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

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

53 (2) Occupancy. The use or possession, or the right to the use or
54 possession, of any room in a hotel. "Right to the use or possession"
55 includes the rights of a room remarketer as described in paragraph eight
56 of this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

54 (iii) A booking service shall not include a person or entity who
55 facilitates bookings of hotel rooms and does not collect and retain the

1 rent paid for such occupancy, as defined by paragraph six of this subdivi-
2 vision.

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

5 (3) The rent for every occupancy of a room or rooms in a short-term
6 rental unit, or space in a short-term rental unit, a type of a hotel
7 offered for rent through a booking service, as defined in paragraph ten
8 of subdivision (c) of section eleven hundred one of this article,
9 regardless of whether it is furnished, limited to a single family occu-
10 pancy, or provides housekeeping, food, or other common hotel services,
11 including, but not limited to, entertainment or planned activities.

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

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

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

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

49 (2) In carrying out the obligations imposed under this section, a
50 booking service shall have all the duties, benefits, and entitlements of
51 a person required to collect tax under this article and article twenty-
52 nine of this chapter with respect to the occupancies giving rise to the
53 tax obligation, including the right to accept a certificate or other
54 documentation from an occupant substantiating an exemption or exclusion
55 from tax, as if such booking service were the operator of the hotel with
56 respect to such occupancy, including the right to receive the refund

1 authorized by subdivision (e) of this section and the credit allowed by
2 subdivision (f) of section eleven hundred thirty-seven of this part.

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

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

9 (ii) the operator of the hotel accepted from the booking service a
10 properly completed certificate of collection in a form prescribed by the
11 commissioner certifying that the booking service has agreed to assume
12 the tax collection and filing responsibilities of the operator of the
13 hotel; and

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

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

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

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

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

42 (4) The return of a vendor of tangible personal property or services
43 shall show such vendor's receipts from sales and the number of gallons
44 of any motor fuel or diesel motor fuel sold and also the aggregate value
45 of tangible personal property and services and number of gallons of such
46 fuels sold by the vendor, the use of which is subject to tax under this
47 article, and the amount of tax payable thereon pursuant to the
48 provisions of section eleven hundred thirty-seven of this part. The
49 return of a recipient of amusement charges shall show all such charges
50 and the amount of tax thereon, and the return of an operator required to
51 collect tax on rents shall show all rents received or charged and the
52 amount of tax thereon. The return of a marketplace seller shall exclude
53 the receipts from a sale of tangible personal property facilitated by a
54 marketplace provider if, in regard to such sale: (A) the marketplace
55 seller has timely received in good faith a properly completed certifi-
56 cate of collection from the marketplace provider or the marketplace

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

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

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

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

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

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

43 § 10. Severability. If any provision of this act, or any application
44 of any provision of this act, is held to be invalid, that shall not
45 affect the validity or effectiveness of any other provision of this act,
46 or of any other application of any provision of this act, which can be
47 given effect without that provision or application; and to that end, the
48 provisions and applications of this act are severable.

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