

STATE OF NEW YORK

885--A

2023-2024 Regular Sessions

IN SENATE

January 6, 2023

Introduced by Sens. HINCHEY, KRUEGER, RAMOS, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

ARTICLE 2-A

SHORT-TERM RESIDENTIAL RENTAL UNITS

Section 20. Definitions.

21. Short-term residential rental units; regulation.

22. Registration.

23. Exceptions.

24. Penalties.

24-a. Enforcement.

24-b. Data sharing.

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

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.

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

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

LBD02793-04-3

1 3. "Booking service" means 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 short-term rentals, 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 a short-term rental.

10 A booking service shall not be construed to include a platform that
11 solely lists or advertises offers for short-term rentals.

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

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

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

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

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

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

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

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

35 3. Short-term rental hosts shall maintain records related to guest
36 stays for two years following the end of the calendar year in which an
37 individual rental stay occurred, including the date of each stay and
38 number of guests, the cost for each stay, including relevant tax, and
39 records related to their registration as short-term rental hosts with
40 the department of state. As a requirement for registration under section
41 twenty-two of this article, hosts shall provide these records to the
42 department of state on an annual basis. The department shall share this
43 report with county, city, town, or village governments and shall make
44 such reports available to local municipal enforcement agencies upon
45 request. Where the booking platform is the short-term rental host, the
46 short-term rental host may be exempt from providing such report provided
47 that the booking platform includes all necessary information required of
48 a short-term rental host in the report required pursuant to subdivision
49 four of this section.

50 4. Notwithstanding the provisions of any other law or administrative
51 action to the contrary, booking services shall develop and maintain a
52 report related to short-term rental unit guest stays that the booking
53 service has facilitated in the state for two years following the end of
54 the calendar year in which an individual rental stay occurred. The
55 report shall include the dates of each stay and the number of guests,
56 the cost for each stay, including relevant tax, the physical address,

1 including any unit designation, of each short-term rental unit booked,
2 the full legal name of each short-term rental unit's host, and each
3 short-term rental unit's registration number. In the event a booking
4 service does not adhere to subdivision two of section twenty-two of this
5 article, or more information is deemed necessary by the department of
6 state, the department may access this report and/or all relevant records
7 from a booking service in response to valid legal process. The depart-
8 ment shall share this report and/or records with county, city, town, or
9 village governments and shall make such reports available to local
10 municipal enforcement agencies when lawfully requested. Reports and any
11 records provided to generate such reports shall not be made publicly
12 available without the redaction of the full legal name of each short-
13 term rental unit's host, the street name and number of the physical
14 address of any identified short-term rental unit and the unit's regis-
15 tration number.

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 and to collect
29 finances for violations related to the registration of short-term residen-
30 tial rental units. Municipalities with short-term residential rental
31 unit registries shall provide information on short-term residential
32 rental units registered within such municipality to the department of
33 state, on a quarterly basis of each calendar year, in order for the
34 department to maintain a current database of all short-term residential
35 units registered within the state. Municipalities with short-term resi-
36 dential rental unit registries shall not be subject to the regulation
37 requirements of this section and may establish registration requirements
38 and regulations in such municipality which may differ from the require-
39 ments of this section.

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

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

1 municipality requests such revocation due to illegal occupancy. Listing
2 or using a dwelling unit, or portion thereof, as a short-term residen-
3 tial rental unit without current, valid registration shall be unlawful
4 and shall make persons who list or use such unit ineligible for regis-
5 tration for a period of twelve months from the date a determination is
6 made that a violation has occurred.

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

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

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

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

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

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

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

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

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

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

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

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

55 1. Incidental and occasional occupancy of such dwelling unit for
56 fewer than thirty consecutive days by other persons when the permanent

1 occupants are temporarily absent for personal reasons, such as vacation
2 or medical treatment, provided that there is no monetary compensation
3 paid to the permanent occupants for such occupancy; or

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

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

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

10 1. Any booking service which collects a fee related to booking a unit
11 as a short-term rental, where such unit is not registered in accordance
12 with this article, shall be fined in accordance with subdivisions four
13 and five of this section. The secretary of state or their designee may
14 also seek an injunction from a court of competent jurisdiction prohibit-
15 ing the collection of any fees relating to the offering or renting of
16 the unit as a short-term residential rental.

17 2. Any person who offers a short-term residential rental unit without
18 registering with the department of state or municipal registration
19 system, or any person who offers an eligible short-term residential
20 rental unit as a short-term rental while the unit's registration on the
21 short-term residential rental unit registry is suspended, shall be fined
22 in accordance with subdivisions four and five of this section.

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

27 4. In a municipality that does not have its own registration system, a
28 short-term rental host that violates the requirements of this article
29 shall receive a warning notice issued, without penalty, by the depart-
30 ment of state upon the first and second violation. The warning notice
31 shall detail actions to be taken to cure the violation. A two hundred
32 dollar fine shall be imposed upon the third violation. A one thousand
33 dollar fine per day shall be imposed upon all subsequent violations.
34 Upon the occurrence of a violation, a seven-day period to cure the
35 violation shall be granted. During such period, no further fines shall
36 be accumulated against the short-term rental host, except where the new
37 violation is related to a different short-term rental unit.

38 5. In a municipality that does not have its own registration system, a
39 booking service that violates the requirements of this article shall be
40 issued a five hundred dollar fine per day, per violation, until such
41 violation is cured.

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

44 § 24-a. Enforcement. 1. The provisions of this article may be enforced
45 in accordance with article eight of this chapter.

46 2. The department of state may enter into agreements with a booking
47 service for assistance in enforcing the provisions of this section,
48 including but not limited to an agreement whereby the booking service
49 agrees to remove a listing from its platform that is deemed ineligible
50 for use as a short-term residential rental unit under the provisions of
51 this article, and whereby the booking service agrees to prohibit a
52 short-term rental host from listing any listing without a valid regis-
53 tration number.

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

1 state, regardless of the registration system in place within the appli-
2 cable jurisdiction.

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

6 § 24-b. Data sharing. Booking services shall provide to the depart-
7 ment of state and municipalities, on a monthly basis, an electronic
8 report, in a format determined by the department of state of the list-
9 ings maintained, authorized, facilitated or advertised by the booking
10 service within the state for the applicable reporting period. The report
11 shall include the registration number, and a breakdown of where the
12 listings are located, whether the listing is for a partial unit or a
13 whole unit, and shall include the number of nights each unit was
14 reported as occupied during the applicable reporting period.

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

17 ARTICLE 2-A

18 SHORT-TERM RESIDENTIAL RENTAL UNITS

19 Section 20. Definitions.

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

21 22. Registration.

22 23. Exceptions.

23 24. Penalties.

24 24-a. Enforcement.

25 24-b. Data sharing.

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

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

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

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

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

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

40 (ii) either accept such offers, or reserve or pay for such rentals;
41 and

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

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

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

51 (b) is not used to provide single room occupancy as defined by subdivi-
52 sion sixteen of section four of this chapter;

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

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

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

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

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

15 3. Short-term rental hosts shall maintain records related to guest
16 stays for two years following the end of the calendar year in which an
17 individual rental stay occurred, including the date of each stay and
18 number of guests, the cost for each stay, including relevant tax, and
19 records related to their registration as short-term rental hosts with
20 the department of state. As a requirement for registration under section
21 twenty-two of this article, hosts shall provide these records to the
22 department of state on an annual basis. The department shall share this
23 report with county, city, town, or village governments and shall make
24 such reports available to local municipal enforcement agencies upon
25 request. Where the booking platform is the short-term rental host, the
26 short-term rental host may be exempt from providing such report provided
27 that the booking platform includes all necessary information required of
28 a short-term rental host in the report required pursuant to subdivision
29 four of this section.

30 4. Notwithstanding the provisions of any other law or administrative
31 action to the contrary, booking services shall develop and maintain a
32 report related to short-term rental unit guest stays that the booking
33 service has facilitated in the state for two years following the end of
34 the calendar year in which an individual rental stay occurred. The
35 report shall include the dates of each stay and the number of guests,
36 the cost for each stay, including relevant tax, the physical address,
37 including any unit designation, of each short-term rental unit booked,
38 the full legal name of each short-term rental unit's host, and each
39 short-term rental unit's registration number. In the event a booking
40 service does not adhere to subdivision two of section twenty-two of this
41 article, or more information is deemed necessary by the department of
42 state, the department may access this report and/or all relevant records
43 from a booking service in response to valid legal process. The depart-
44 ment shall share this report and/or records with county, city, town, or
45 village governments and shall make such reports available to local
46 municipal enforcement agencies when lawfully requested. Reports and any
47 records provided to generate such reports shall not be made publicly
48 available without the redaction of the full legal name of each short-
49 term rental unit's host, the street name and number of the physical
50 address of any identified short-term rental unit and the unit's regis-
51 tration number.

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

6. The provisions of this article shall apply to all short-term residential rental units in the state; provided, however, that a municipality that has its own short-term residential rental unit registry may continue such registry and all short-term residential rental units in such municipality shall be required to be registered with such municipal registry and shall not be required to register with the department of state. Municipalities with short-term residential rental unit registries shall maintain the authority to manage such registries and to collect fines for violations related to the registration of short-term residential rental units. Municipalities with short-term residential rental unit registries shall provide information on short-term residential rental units registered within such municipality to the department of state, on a quarterly basis of each calendar year in order for the department to maintain a current database of all short-term residential units registered within the state. Municipalities with short-term residential rental unit registries shall not be subject to the regulation requirements of this section and may establish registration requirements and regulations in such municipality which may differ from the requirements of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 1. Incidental and occasional occupancy of such dwelling unit for fewer
36 than thirty consecutive days by other persons when the permanent occu-
37 pants are temporarily absent for personal reasons, such as vacation or
38 medical treatment, provided that there is no monetary compensation paid
39 to the permanent occupants for such occupancy; or

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

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

44 § 24. Penalties. Notwithstanding the provisions of any other law to
45 the contrary:

46 1. Any booking service which collects a fee related to booking a unit
47 as a short-term rental, where such unit is not registered in accordance
48 with this article, shall be fined in accordance with subdivisions four
49 and five of this section. The secretary of state or their designee may
50 also seek an injunction from a court of competent jurisdiction prohibit-
51 ing the collection of any fees relating to the offering or renting of
52 the unit as a short-term residential rental.

53 2. Any person who offers a short-term residential rental unit without
54 registering with the department of state or municipal registration
55 system, or any person who offers an eligible short-term residential
56 rental unit as a short-term rental while the unit's registration on the

1 short-term residential rental unit registry is suspended, shall be fined
2 in accordance with subdivisions four and five of this section.

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

7 4. In a municipality that does not have its own registration system, a
8 short-term rental host that violates the requirements of this article
9 shall receive a warning notice issued, without penalty, by the depart-
10 ment of state upon the first and second violation. The warning notice
11 shall detail actions to be taken to cure the violation. A two hundred
12 dollar fine shall be imposed upon the third violation. A one thousand
13 dollar fine per day shall be imposed upon all subsequent violations.
14 Upon the occurrence of a violation, a seven-day period to cure the
15 violation shall be granted. During such period, no further fines shall
16 be accumulated against the short-term rental host, except where the new
17 violation is related to a different short-term rental unit.

18 5. In a municipality that does not have its own registration system, a
19 booking service that violates the requirements of this article shall be
20 issued a five hundred dollar fine per day, per violation, until the
21 violation is cured.

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

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

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

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

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

41 § 24-b. Data sharing. Booking services shall provide to the department
42 of state and municipalities, on a monthly basis, an electronic report,
43 in a format determined by the department of state of the listings main-
44 tained, authorized, facilitated or advertised by the booking service
45 within the state for the applicable reporting period. The report shall
46 include the registration number, and a breakdown of where the listings
47 are located, whether the listing is for a partial unit or a whole unit,
48 and shall include the number of nights each unit was reported as occu-
49 pled during the applicable reporting period.

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

55 (c) When used in this article for the purposes of the tax imposed
56 under subdivision (e) of section eleven hundred five of this article,

1 and subdivision (a) of section eleven hundred four of this article, the
2 following terms shall mean:

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

7 (2) Occupancy. The use or possession, or the right to the use or
8 possession, of any room in a hotel. "Right to the use or possession"
9 includes the rights of a room remarketer as described in paragraph eight
10 of this subdivision.

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

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

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

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

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

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

41 (9) Short-term rental unit. A short-term residential unit as defined
42 in section twenty of the multiple residence law or in section twenty of
43 the multiple dwelling law which is registered with the department of
44 state or a municipal registration system, which includes but is not
45 limited to title twenty-six of the administrative code of the city of
46 New York.

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

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

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

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

54 (B) charges, collects or receives a fee from a customer or host for
55 the use of such a platform or for provision of any service in connection
56 with rental space in a hotel. For the purposes of this section,

1 "customer" means an individual or organization that purchases a stay at
2 a short-term rental.

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

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

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

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

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

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

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

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

1 from tax, as if such booking service were the operator of the hotel with
2 respect to such occupancy, including the right to receive the refund
3 authorized by subdivision (e) of this section and the credit allowed by
4 subdivision (f) of section eleven hundred thirty-seven of this part.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 § 12. This act shall take effect on the one hundred twentieth day
52 after it shall have become a law.