

STATE OF NEW YORK

885--B

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 -- reported favorably from said committee and committed to the Committee on Finance -- 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.

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

LBD02793-06-3

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

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

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

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

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

(b) charges, collects or receives a fee for the use of such a platform or for provision of any service in connection with a short-term rental.

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

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

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

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

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

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

(e) has a working fire-extinguisher; and

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

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

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

4. Notwithstanding the provisions of any other law or administrative action to the contrary, booking services shall develop and maintain a report related to short-term rental unit guest stays that the booking service has facilitated in the state for two years following the end of the calendar year in which an individual rental stay occurred. The

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

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

23 6. The provisions of this article shall apply to all short-term resi-
24 dential rental units in the state; provided, however, that a munici-
25 pality that has its own short-term residential rental unit registry may
26 continue such registry and all short-term residential rental units in
27 such municipality shall be required to be registered with such municipal
28 registry and shall not be required to register with the department of
29 state. Municipalities with short-term residential rental registries
30 shall establish and effectuate standards for the health and safety of
31 guests, including, but not limited to, the standards established in
32 paragraphs (c), (d) and (e) of subdivision one of this section. Muni-
33 cipalities with short-term residential rental unit registries shall main-
34 tain the authority to manage such registries and to collect fines for
35 violations related to the registration of short-term residential rental
36 units. Municipalities with short-term residential rental unit regis-
37 tries shall provide information on short-term residential rental units
38 registered within such municipality to the department of state, on a
39 quarterly basis of each calendar year, in order for the department to
40 maintain a current database of all short-term residential units regis-
41 tered within the state. Municipalities with short-term residential
42 rental unit registries shall not be subject to the regulation require-
43 ments of this section and may establish registration requirements and
44 regulations in such municipality which may differ from the requirements
45 of this section.

46 § 22. Registration. 1. Short-term rental hosts shall be required to
47 register a short-term residential rental unit with the department of
48 state or with the municipality where such short-term residential unit is
49 located if such municipality has a registration system; provided, howev-
50 er, that the department of state shall not accept an application to
51 register a short-term residential rental unit for a unit that is located
52 in a municipality which has its own registration system and that has
53 notified the department of state of such registration system. Where a
54 short-term rental is located in a jurisdiction that has multiple muni-
55 cipal registration systems, the host shall select only one such municipal
56 registration system to register under. No municipality shall require a

1 host to register under their registration system where a host is
2 lawfully registered with another municipal registration system.

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

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

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

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

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

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

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

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

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

54 (i) Obtain written consent from all short-term rental hosts intending
55 to utilize their platform, for short-term residential rental units
56 located in this state, for the disclosure of the information pursuant to

subdivision four of section twenty-one of this article, in accordance with paragraph (a) of this subdivision; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2. The multiple dwelling 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 or entity in valid legal possession of a short-term rental unit who rents such unit to guests.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 4. Notwithstanding the provisions of any other law or administrative
40 action to the contrary, booking services shall develop and maintain a
41 report related to short-term rental unit guest stays that the booking
42 service has facilitated in the state for two years following the end of
43 the calendar year in which an individual rental stay occurred. The
44 report shall include the dates of each stay and the number of guests,
45 the cost for each stay, including relevant tax, the physical address,
46 including any unit designation, of each short-term rental unit booked,
47 the full legal name of each short-term rental unit's host, and each
48 short-term rental unit's registration number. In the event a booking
49 service does not adhere to subdivision two of section twenty-two of this
50 article, or more information is deemed necessary by the department of
51 state, the department may access this report and/or all relevant records
52 from a booking service in response to valid legal process. The depart-
53 ment shall share this report and/or records with county, city, town, or
54 village governments and shall make such reports available to local
55 municipal enforcement agencies when lawfully requested. Reports and any
56 records provided to generate such reports shall not be made publicly

1 available without the redaction of the full legal name of each short-
2 term rental unit's host, the street name and number of the physical
3 address of any identified short-term rental unit and the unit's regis-
4 tration number.

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

10 6. The provisions of this article shall apply to all short-term resi-
11 dential rental units in the state; provided, however, that a munici-
12 pality that has its own short-term residential rental unit registry may
13 continue such registry and all short-term residential rental units in
14 such municipality shall be required to be registered with such municipal
15 registry and shall not be required to register with the department of
16 state. Municipalities with short-term residential rental registries
17 shall establish and effectuate standards for the health and safety of
18 guests, including, but not limited to, the standards established in
19 paragraphs (c), (d) and (e) of subdivision one of this section. Muni-
20 cipalities with short-term residential rental unit registries shall main-
21 tain the authority to manage such registries and to collect fines for
22 violations related to the registration of short-term residential rental
23 units. Municipalities with short-term residential rental unit registries
24 shall provide information on short-term residential rental units regis-
25 tered within such municipality to the department of state, on a quarter-
26 ly basis of each calendar year in order for the department to maintain a
27 current database of all short-term residential units registered within
28 the state. Municipalities with short-term residential rental unit regis-
29 tries shall not be subject to the regulation requirements of this
30 section and may establish registration requirements and regulations in
31 such municipality which may differ from the requirements of this
32 section.

33 § 22. Registration. 1. Short-term rental hosts shall be required to
34 register a short-term residential rental unit with the department of
35 state or with the municipality where such short-term residential unit is
36 located if such municipality has a registration system; provided, howev-
37 er, that the department of state shall not accept an application to
38 register a short-term residential rental unit for a unit that is located
39 in a municipality which has its own registration system and that has
40 notified the department of state of such registration system. Where a
41 short-term rental is located in a jurisdiction that has multiple muni-
42 cipal registration systems, the host shall select only one such municipal
43 registration system to register under. No municipality shall require a
44 host to register under their registration system where a host is
45 lawfully registered with another municipal 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 in accordance with subdivisions four
12 and five of this section. The secretary of state or their designee may
13 also seek an injunction from a court of competent jurisdiction prohibit-
14 ing the collection of any fees relating to the offering or renting of
15 the unit as a short-term residential rental.

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

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

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

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

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

43 § 24-a. Enforcement. 1. The provisions of this article may be enforced
44 in accordance with article eight of this chapter.

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

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

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

4 § 24-b. Data sharing. Booking services shall provide to the department
5 of state and municipalities, on a monthly basis, an electronic report,
6 in a format determined by the department of state of the listings main-
7 tained, authorized, facilitated or advertised by the booking service
8 within the state for the applicable reporting period. The report shall
9 include the registration number, and a breakdown of where the listings
10 are located, whether the listing is for a partial unit or a whole unit,
11 and shall include the number of nights each unit was reported as occu-
12 pled during the applicable reporting period.

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

18 (c) When used in this article for the purposes of the tax imposed
19 under subdivision (e) of section eleven hundred five of this article,
20 and subdivision (a) of section eleven hundred four of this article, the
21 following terms shall mean:

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

26 (2) Occupancy. The use or possession, or the right to the use or
27 possession, of any room in a hotel. "Right to the use or possession"
28 includes the rights of a room remarketer as described in paragraph eight
29 of this subdivision.

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

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

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

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

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

50 (8) Room remarketer. A person who reserves, arranges for, conveys, or
51 furnishes occupancy, whether directly or indirectly, to an occupant for
52 rent in an amount determined by the room remarketer, directly or indi-
53 rectly, whether pursuant to a written or other agreement. Such person's
54 ability or authority to reserve, arrange for, convey, or furnish occu-
55 pancy, directly or indirectly, and to determine rent therefor, shall be
56 the "rights of a room remarketer". A room remarketer is not a permanent

1 resident with respect to a room for which such person has the rights of
2 a room remarketer. This term does not include a booking service unless
3 such service otherwise meets this definition.

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

10 (10) Booking service. (i) 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 rental of a short-term rental unit,
15 or space in a short-term rental unit, a type of a hotel as defined in
16 paragraph one of this subdivision, and

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

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

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

28 (iii) A booking service shall not include a person or entity who
29 facilitates bookings of hotel rooms and does not collect and retain the
30 rent paid for such occupancy, as defined by paragraph six of this subdi-
31 vision.

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

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

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

44 (1) "Persons required to collect tax" or "person required to collect
45 any tax imposed by this article" shall include: every vendor of tangible
46 personal property or services; every recipient of amusement charges;
47 every operator of a hotel; ~~and~~ every marketplace provider with respect
48 to sales of tangible personal property it facilitates as described in
49 paragraph one of subdivision (e) of section eleven hundred one of this
50 article; and booking services unless relieved of such obligation pursu-
51 ant to paragraph three of subdivision (m) of section eleven hundred
52 thirty-two of this part. Said terms shall also include any officer,
53 director or employee of a corporation or of a dissolved corporation, any
54 employee of a partnership, any employee or manager of a limited liabil-
55 ity company, or any employee of an individual proprietorship who as such
56 officer, director, employee or manager is under a duty to act for such

1 corporation, partnership, limited liability company or individual
2 proprietorship in complying with any requirement of this article, or has
3 so acted; and any member of a partnership or limited liability company.
4 Provided, however, that any person who is a vendor solely by reason of
5 clause (D) or (E) of subparagraph (i) of paragraph (8) of subdivision
6 (b) of section eleven hundred one of this article shall not be a "person
7 required to collect any tax imposed by this article" until twenty days
8 after the date by which such person is required to file a certificate of
9 registration pursuant to section eleven hundred thirty-four of this
10 part.

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

13 (m) (1) A booking service shall be required to (i) collect from the
14 occupants the applicable taxes arising from such occupancies; (ii)
15 comply with all the provisions of this article and article twenty-nine
16 of this chapter and any regulations adopted pursuant thereto; (iii)
17 register to collect tax under section eleven hundred thirty-four of this
18 part; and (iv) retain records and information as required by the commis-
19 sioner and cooperate with the commissioner to ensure the proper
20 collection and remittance of tax imposed, collected, or required to be
21 collected under this article and article twenty-nine of this chapter.

22 (2) In carrying out the obligations imposed under this section, a
23 booking service shall have all the duties, benefits, and entitlements of
24 a person required to collect tax under this article and article twenty-
25 nine of this chapter with respect to the occupancies giving rise to the
26 tax obligation, including the right to accept a certificate or other
27 documentation from an occupant substantiating an exemption or exclusion
28 from tax, as if such booking service were the operator of the hotel with
29 respect to such occupancy, including the right to receive the refund
30 authorized by subdivision (e) of this section and the credit allowed by
31 subdivision (f) of section eleven hundred thirty-seven of this part.

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

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

38 (ii) the operator of the hotel accepted from the booking service a
39 properly completed certificate of collection in a form prescribed by the
40 commissioner certifying that the booking service has agreed to assume
41 the tax collection and filing responsibilities of the operator of the
42 hotel; and

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

47 This provision shall be administered in a manner consistent with
48 subparagraph (i) of paragraph one of subdivision (c) of this section as
49 if a certificate of collection were a resale or exemption certificate
50 for purposes of such subparagraph, including with regard to the
51 completeness of such certificate of collection and the timing of its
52 acceptance by the operator of the hotel; provided however, that with
53 regard to any occupancies sold by an operator of the hotel that are
54 facilitated by a booking service who is affiliated with such operator,
55 the operator shall be deemed liable as a person under a duty to act for

1 such booking service for purposes of subdivision one of section eleven
2 hundred thirty-one of this part.

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

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

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

16 (4) The return of a vendor of tangible personal property or services
17 shall show such vendor's receipts from sales and the number of gallons
18 of any motor fuel or diesel motor fuel sold and also the aggregate value
19 of tangible personal property and services and number of gallons of such
20 fuels sold by the vendor, the use of which is subject to tax under this
21 article, and the amount of tax payable thereon pursuant to the
22 provisions of section eleven hundred thirty-seven of this part. The
23 return of a recipient of amusement charges shall show all such charges
24 and the amount of tax thereon, and the return of an operator required to
25 collect tax on rents shall show all rents received or charged and the
26 amount of tax thereon. The return of a marketplace seller shall exclude
27 the receipts from a sale of tangible personal property facilitated by a
28 marketplace provider if, in regard to such sale: (A) the marketplace
29 seller has timely received in good faith a properly completed certif-
30 icate of collection from the marketplace provider or the marketplace
31 provider has included a provision approved by the commissioner in the
32 publicly-available agreement between the marketplace provider and the
33 marketplace seller as described in subdivision one of section eleven
34 hundred thirty-two of this part, and (B) the information provided by the
35 marketplace seller to the marketplace provider about such tangible
36 personal property is accurate. The return of a short-term rental host
37 shall exclude the rent from occupancy of a short-term rental unit facil-
38 itated by a booking service if, in regard to such sale: (A) the short-
39 term rental host has timely received in good faith a properly completed
40 certificate of collection from the booking service or the booking
41 service has included a provision approved by the commissioner in the
42 publicly-available agreement between the booking service and the short-
43 term rental host as described in subdivision (m) of section eleven
44 hundred thirty-two of this part, and (B) the information provided by the
45 short-term rental host to the booking service about such rent and such
46 occupancy is accurate.

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

49 16. To publish a list on the department's website of booking services
50 whose certificates of authority have been revoked and, if necessary to
51 protect sales tax revenue, provide by regulation or otherwise that a
52 short-term rental unit operator will be relieved of the requirement to
53 register and the duty to collect tax on the rent for occupancy of a
54 short-term rental facilitated by a booking service provider only if, in
55 addition to the conditions prescribed by paragraph two of subdivision
56 (m) of section eleven hundred thirty-two and paragraph six of subdivi-

1 sion (a) of section eleven hundred thirty-four of this part being met,
2 such booking service is not on such list at the commencement of the
3 quarterly period covered thereby.

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

6 § 1200. Definition. For the purposes of this article "hotel" shall
7 mean a building or portion of such building which is regularly used and
8 kept open as such for the lodging of guests, including: (a) an apartment
9 hotel, (b) a motel, (c) a boarding house or club, whether or not meals
10 are served, and (d) short-term residential rental units as defined in
11 subdivision one of section twenty of the multiple residence law or in
12 subdivision one of section twenty of the multiple dwelling law.

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

17 § 11. Severability. If any provision of this act, or any application
18 of any provision of this act, is held to be invalid, that shall not
19 affect the validity or effectiveness of any other provision of this act,
20 or of any other application of any provision of this act, which can be
21 given effect without that provision or application; and to that end, the
22 provisions and applications of this act are severable.

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