

STATE OF NEW YORK

6815

2025-2026 Regular Sessions

IN ASSEMBLY

March 14, 2025

Introduced by M. of A. BEEPHAN -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to authorizing the town of Fishkill to adopt a local law to impose a hotel/motel occupancy tax for hotels not located in the village of Fishkill; authorizing the village of Fishkill to adopt local laws to impose a hotel/motel occupancy tax in such village; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The tax law is amended by adding a new section 1202-dd-2 to
2 read as follows:

3 § 1202-dd-2. Hotel or motel taxes in the town of Fishkill and in the
4 village of Fishkill. (1) Notwithstanding any other provisions of law to
5 the contrary, the following municipalities are hereby authorized and
6 empowered to adopt and amend local laws imposing a tax on persons occu-
7 pying rooms in hotels or motels in such town or village, as the legisla-
8 ture has or would have the power and authority to impose, in addition to
9 any other tax authorized and imposed pursuant to this article:

10 a. the town of Fishkill, Dutchess county, in those portions of such
11 town not located within the village of Fishkill; and

12 b. the village of Fishkill situate in the town of Fishkill.

13 (2) For the purposes of this section, the term "hotel" shall mean a
14 building or portion of it which is regularly used and kept open as such
15 for the lodging of guests. The term "hotel" includes an apartment hotel,
16 a motel or a boarding house, whether or not meals are served.

17 (3) The rate of such tax shall not exceed two and one-half percent of
18 the per diem rental rate for each room whether such room is rented on a
19 daily or longer basis.

20 (4) Such tax may be collected and administered by the commissioner of
21 finance or other fiscal officer of the town of Fishkill or of the

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

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1 village of Fishkill, as the case may be, by such means and in such
2 manner as other taxes which are now collected and administered by such
3 officers in accordance with the town or village charter or as otherwise
4 may be provided by such local law.

5 (5) Such local laws may provide that any tax imposed shall be paid by
6 the person liable therefor to the owner of the hotel or motel room occu-
7 pied or to the person entitled to be paid the rent or charge for the
8 hotel or motel room occupied for and on account of the town of Fishkill
9 or of the village of Fishkill, and that such owner or person entitled to
10 be paid the rent or charge shall be liable for the collection and
11 payment of the tax; and that such owner or person entitled to be paid
12 the rent or charge shall have the same right in respect to collecting
13 the tax from the person occupying the hotel or motel room, or in respect
14 to nonpayment of the tax by the person occupying the hotel or motel
15 room, as if the tax were a part of the rent or charge and payable at the
16 same time as the rent or charge; provided, however, that the commission-
17 er of finance or other fiscal officers of such town or village, speci-
18 fied in such local law, shall be joined as a party in any action or
19 proceeding brought to collect the tax by the owner or by the person
20 entitled to be paid the rent or charge.

21 (6) Such local laws may provide for the filing of returns and the
22 payment of the tax on a monthly basis or on the basis of any longer or
23 shorter period of time.

24 (7) This section shall not authorize the imposition of such tax upon
25 the following:

26 a. The state of New York or any public corporation, including a public
27 corporation created pursuant to agreement or compact with another state
28 or the dominion of Canada, improvement district or other political
29 subdivision of the state;

30 b. The United States of America, insofar as it is immune from taxa-
31 tion; and

32 c. Any corporation or association or trust or community chest, fund or
33 foundation organized and operated exclusively for religious, charitable
34 or educational purposes or for the prevention of cruelty to children or
35 animals, and no part of the net earnings of which inures to the benefit
36 of any private shareholder or individual and no substantial part of the
37 activities of which is carrying on propaganda, or otherwise attempting
38 to influence legislation; provided, however, that nothing in this para-
39 graph shall include an organization operated for the primary purpose of
40 carrying on a trade or business for profit, whether or not all of its
41 profits are payable to one or more organizations described in this para-
42 graph.

43 (8) Any final determination of the amount of any tax payable hereunder
44 shall be reviewable for error, illegality or unconstitutionality or any
45 other reason whatsoever by a proceeding under article seventy-eight of
46 the civil practice law and rules if application therefor is made to the
47 supreme court within thirty days after giving of the notice of such
48 final determination, provided, however, that any such proceeding under
49 article seventy-eight of the civil practice law and rules shall not be
50 instituted unless:

51 a. The amount of any tax sought to be reviewed, with such interest and
52 penalties thereon as may be provided for by local law or regulation
53 shall be first deposited and there is filed an undertaking, issued by a
54 surety company authorized to transact business in this state and
55 approved by the superintendent of financial services of this state as to
56 solvency and responsibility, in such amount as a justice of the supreme

1 court shall approve to the effect that if such proceeding be dismissed
2 or the tax confirmed the petitioner will pay all costs and charges which
3 may accrue in the prosecution of such proceeding; or

4 b. At the option of the petitioner such undertaking may be in a sum
5 sufficient to cover taxes, interest and penalties stated in such deter-
6 mination plus the costs and charges which may accrue against it in the
7 prosecution of the proceeding, in which event the petitioner shall not
8 be required to pay such taxes, interest or penalties as a condition
9 precedent to the application.

10 (9) Where any tax imposed hereunder shall have been erroneously, ille-
11 gally or unconstitutionally collected and application for the refund
12 thereof duly made to the proper fiscal officer or officers, and such
13 officer or officers shall have made a determination denying such refund,
14 such determination shall be reviewable by a proceeding under article
15 seventy-eight of the civil practice law and rules, provided, however,
16 that such proceeding is instituted within thirty days after the giving
17 of the notice of such denial, that a final determination of tax due was
18 not previously made, and that an undertaking is filed with the proper
19 fiscal officer or officers in such amount and with such sureties as a
20 justice of the supreme court shall approve to the effect that if such
21 proceeding be dismissed or the tax confirmed, the petitioner will pay
22 all costs and charges which accrue in the prosecution of such proceed-
23 ing.

24 (10) Except in the case of a willfully false or fraudulent return with
25 intent to evade the tax, no assessment of additional tax shall be made
26 after the expiration of more than three years from the date of the
27 filing of a return, provided, however, that where no return has been
28 filed as provided by law the tax may be assessed at any time.

29 (11) Revenues resulting from the imposition of tax authorized by this
30 section shall be paid into the treasury of the town of Fishkill or of
31 the village of Fishkill, and shall be credited to and deposited in the
32 general fund of such town or village; and may thereafter be allocated at
33 the discretion of the board of legislators of the town of Fishkill or of
34 the village of Fishkill for any town or village purpose.

35 (12) If any provision of this section or the application thereof to
36 any person or circumstance shall be held invalid, the remainder of this
37 section and the application of such provision to other persons or
38 circumstances shall not be affected thereby.

39 (13) Each enactment of such a local law may provide for the imposition
40 of a hotel or motel tax for a period of time no longer than three years
41 from the date of its enactment. Nothing in this section shall prohibit
42 the adoption and enactment of local laws, pursuant to the provisions of
43 this section, upon the expiration of any other local law adopted pursu-
44 ant to this section.

45 § 2. This act shall take effect immediately, and shall expire and be
46 deemed repealed December 31, 2027.