

## CHAPTER 235

AN ACT concerning transient accommodation taxes and fees, amending various parts of the statutory law.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 84 of P.L.2015, c.19 (C.5:10A-84) is amended to read as follows:

C.5:10A-84 Definitions relative to the “New Jersey Meadowlands Tax Relief Act.”

84. As used in sections 82 through 85 of P.L.2015, c.19 (C.5:10A-82 et seq.):

"Commission" means the New Jersey Sports and Exposition Authority, which may be referred to as the "Meadowlands Regional Commission," as established by section 6 of P.L.2015, c.19 (C.5:10A-6).

"Constituent municipality" means any of the following municipalities: Carlstadt, East Rutherford, Little Ferry, Lyndhurst, Moonachie, North Arlington, Ridgefield, Rutherford, South Hackensack, and Teterboro in Bergen county; and Jersey City, Kearny, North Bergen, and Secaucus in Hudson county.

"Meadowlands district" means the Hackensack Meadowlands District, the area delineated within section 5 of P.L.2015, c.19 (C.5:10A-5).

“Obtained through a transient space marketplace” means that payment for the accommodation is made through a means provided by the marketplace or travel agency, either directly or indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.

“Professionally managed unit” means a room, group of rooms, or other living or sleeping space for the lodging of occupants in the State, that is offered for rent as a rental unit that does not share any living or sleeping space with any other rental unit, and that is directly or indirectly owned or controlled by a person offering for rent two or more other units during the calendar year. "Public venue" means any place located within the Meadowlands district, whether publicly or privately owned, where any facilities for entertainment, amusement, or sports are provided, but shall not include a movie theater.

"Public event" means any spectator sporting event, trade show, exposition, concert, amusement, or other event open to the public that takes place at a public venue, but shall not include a major league football game.

"Residence" means a house, condominium, or other residential dwelling unit in a building or structure or part of a building or structure that is designed, constructed, leased, rented, let or hired out, or otherwise made available for use as a residence.

"Transient accommodation" means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences, that is obtained through a transient space marketplace or is a professionally managed unit. "Transient accommodation" does not include: a hotel or hotel room; a room, group of rooms, or other living or sleeping space used as a place of assembly; a dormitory or other similar residential facility of an elementary or secondary school or a college or university; a hospital, nursing home, or other similar residential facility of a provider of services for the care, support and treatment of individuals that is licensed by the State; a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; a furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes and similar living units, where no maid service, room service, linen changing service or other common hotel services are made available by the lessor and where the keys to the furnished or unfurnished private residential property, whether a physical key, access to a keyless locking mechanism, or other means of physical ingress to the furnished or unfurnished

private residential property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases of real property with a term of at least 90 consecutive days.

"Transient space marketplace" means a marketplace or travel agency through which a person may offer transient accommodations to customers and through which customers may arrange for occupancies of transient accommodations. "Transient space marketplace" does not include a marketplace or travel agency that exclusively offers transient accommodations in the State owned by the owner of the marketplace or travel agency.

2. Section 85 of P.L.2015, c.19 (C.5:10A-85) is amended to read as follows:

C.5:10A-85 Meadowlands regional accommodation use assessment.

85. a. (1) Beginning on the first day of the first month next following the enactment of P.L.2015 c.19 (C.5:10A-1 et al.), there is imposed a Meadowlands regional hotel use assessment on the rent for the occupancy of every room in every hotel or transient accommodation located in the Meadowlands district, including any hotels located on land owned by the State.

(2) Beginning on the first day of the first month next following the enactment of P.L.2018, c.52, the Meadowlands regional hotel use assessment shall be applied on the rent for the occupancy of every room in every hotel or transient accommodation located outside of the Meadowlands district, but within a constituent municipality, including any hotels located on land owned by the State.

(3) The assessment imposed under this subsection shall be 3% of the rent charged for every occupancy of a room or rooms in a hotel or transient accommodation subject to taxation pursuant to subsection (d) of section 3 of P.L.1966, c.30 (C.54:32B-3), and shall be paid to the Director of the Division of Taxation by each person required to collect the tax not later than the 10th day of each month based on the occupancy of rooms in that hotel or transient accommodation during the previous calendar month.

b. In carrying out the provisions of subsection a. of this section, the director shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The tax shall be filed and paid in a manner prescribed by the Director of the Division of Taxation. The director shall promulgate such rules and regulations as the director determines are necessary to effectuate the provisions of this section.

Each person required to collect the assessment shall be personally liable for the assessment imposed, collected, or required to be paid, collected, or remitted under this section. Any such person shall have the same right in respect to collecting the fee from that person's customer or in respect to non-payment of the fee by the customer as if the fee were a part of the purchase price of the occupancy or rent, as the case may be, and payable at the same time; provided, however, that the director shall be joined as a party in any action or proceeding brought to collect the fee.

Notwithstanding any other provision of law or administrative action to the contrary, transient space marketplaces shall be required to collect and pay on behalf of persons engaged in the business of providing transient accommodations located in this State the tax for transactions obtained through the transient space marketplace. For not less than four years following the end of the calendar year in which the transaction occurred, the transient space marketplace shall maintain the following data for those transactions consummated through the transient space marketplace:

(1) The name of the person who provided the transient accommodation;

- (2) The name of the customer who procured occupancy of the transient accommodation;
- (3) The address, including any unit designation, of the transient accommodation;
- (4) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation;
- (5) The municipal transient accommodation registration number, if applicable;
- (6) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;
- (7) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and
- (8) Such other information as the Division of Taxation may by rule require.

The Division of Taxation may audit transient space marketplaces as necessary to ensure data accuracy and enforce tax compliance.

For purposes of this section, "person" includes: an individual, partnership, corporation, or an officer, director, stockholder, or employee of a corporation, or a member or employee of a partnership, who as such officer, director, stockholder, employee, or member is under the duty to perform the act in respect of which the violation occurs.

An assessment imposed under this section shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity.

c. Assessment revenue shall be collected by the Director of the Division of Taxation and shall be deposited by the Director of the Division of Taxation into the intermunicipal account established pursuant to section 53 of P.L.2015, c.19 (C.5:10A-53), and shall be used to pay meadowlands adjustment payments to municipalities in the Meadowlands district pursuant to the provisions of sections 1 through 68 of P.L.2015, c.19 (C.5:10A-1 et seq.). If in any year, assessment revenue in the intermunicipal account exceeds the amount necessary to pay meadowlands adjustment payments to municipalities in the Meadowlands district, that remaining assessment revenue may be used for the purposes set forth in subsection e. of this section.

d. In the event sufficient assessment revenue is unavailable in any year to pay all of the required meadowlands adjustment payments to municipalities in the Meadowlands district, the State Treasurer shall provide the commission with such funds as may be necessary to make all of the required payments to those municipalities.

e. In the event that in any year, after the required meadowlands adjustment payments have been made to municipalities in the Meadowlands district, assessment revenue remains in the intermunicipal account, that remaining assessment revenue may be used in that year for the following purposes:

(1) the commission may perform projects in the areas of flood control, traffic, renewable energy, or other infrastructure improvement projects and utilize monies from the project fund for property acquisition, demolition, clearance, removal, relocation, renovation, alteration, construction, reconstruction, installation, or repair of a structure or improvement, and the costs associated therewith including the costs of appraisal, economic and environmental analyses or engineering, planning, design, architectural, surveying, or other professional services;

(2) the commission may expend funds towards the promotion of the Meadowlands district as a tourism destination;

(3) the commission may fund the acquisition of property for the purpose of open space preservation and the costs associated therewith including the costs of appraisal, economic and environmental analyses or engineering, surveying, or other professional services; or

(4) the commission may fund the creation of parks and other recreational facilities and the costs associated therewith, including the costs of appraisal, economic and environmental analyses or engineering planning, design, architectural, surveying, or other professional services.

Not later than the first day of the third month next following the enactment of P.L.2015, c.19 (C.5:10A-1 et al.) and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commission shall adopt, by resolution, standards for the disbursement in any year of any remaining assessment revenue for projects and uses set forth in subsection e. of this section.

f. Terms used in this section shall have the meaning given those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).

3. Section 3 of P.L.2007, c.30 (C.34:1B-192) is amended to read as follows:

C.34:1B-192 Definitions relative to sports and entertainment districts.

3. As used in this act:

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

"Developer" means any person or entity, whether public or private, including a State entity, that proposes to undertake a project pursuant to a development agreement.

"District" or "sports and entertainment district" means a geographic area which includes a project as set forth in the ordinance pursuant to section 4 of P.L.2007, c.30 (C.34:1B-193).

"Eligible municipality" means a municipality: (1) in which is located part of an urban enterprise zone that has been designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any supplement thereto; and (2) which has a population greater than 25,000 and less than 29,000 according to the latest federal decennial census in a county of the third class with a population density greater than 295 and less than 304 persons per square mile according to the latest federal decennial census.

"Infrastructure improvements" means the construction or rehabilitation of any street, highway, utility, transportation or parking facilities, or other similar improvements; the acquisition of any interest in land as necessary or convenient for the acquisition of any right-of-way or other easement for the purpose of constructing infrastructure improvements; the acquisition, construction or reconstruction of land and site improvements, including demolition, clearance, removal, construction, reconstruction, fill, environmental enhancement or abatement, or other site preparation for development of a sports and entertainment district.

"Obtained through a transient space marketplace" means that payment for the accommodation is made through a means provided by the marketplace or travel agency, either directly or indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.

"Professionally managed unit" means a room, group of rooms, or other living or sleeping space for the lodging of occupants in the State, that is offered for rent as a rental unit that does not share any living or sleeping space with any other rental unit, and that is directly or indirectly owned or controlled by a person offering for rent two or more other units during the calendar year.

"Project" means a sports and entertainment facility and may include infrastructure improvements that are associated with the sports and entertainment facility.

"Project cost" means the cost of a project, including the financing, acquisition, development, construction, redevelopment, rehabilitation, reconstruction and improvement costs thereof, financing costs and the administrative costs, including any administrative costs of the authority if bonds are issued pursuant to section 16 of P.L.2007, c.30 (C.34:1B-205) and incurred in connection with a sports and entertainment facility which is financed, in whole or in part, by the revenues dedicated by a municipality to a project as authorized pursuant to section 5 of P.L.2007, c.30 (C.34:1B-194).

"Residence" means a house, condominium, or other residential dwelling unit in a building or structure or part of a building or structure that is designed, constructed, leased, rented, let or hired out, or otherwise made available for use as a residence.

"Sports and entertainment facility" means any privately or publicly owned or operated facility located in a sports and entertainment district that is used primarily for sports contests, entertainment, or both, such as a theater, stadium, museum, arena, automobile racetrack, or other place where performances, concerts, exhibits, games or contests are held.

"State Treasurer" or "treasurer" means the treasurer of the State of New Jersey.

"Transient accommodation" means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences, that is obtained through a transient space marketplace or is a professionally managed unit. "Transient accommodation" does not include: a hotel or hotel room; a room, group of rooms, or other living or sleeping space used as a place of assembly; a dormitory or other similar residential facility of an elementary or secondary school or a college or university; a hospital, nursing home, or other similar residential facility of a provider of services for the care, support and treatment of individuals that is licensed by the State; a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; a furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes and similar living units, where no maid service, room service, linen changing service or other common hotel services are made available by the lessor and where the keys to the furnished or unfurnished private residential property, whether a physical key, access to a keyless locking mechanism, or other means of physical ingress to the furnished or unfurnished private residential property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases of real property with a term of at least 90 consecutive days.

"Transient space marketplace" means a marketplace or travel agency through which a person may offer transient accommodations to customers and through which customers may arrange for occupancies of transient accommodations. "Transient space marketplace" does not include a marketplace or travel agency that exclusively offers transient accommodations in the State owned by the owner of the marketplace or travel agency.

4. Section 7 of P.L.2007, c.30 (C.34:1B-196) is amended to read as follows:

C.34:1B-196 Collection of tax.

7. a. A tax imposed pursuant to a municipal ordinance adopted under the provisions of subsection a. of section 5 of P.L.2007, c.30 (C.34:1B-194) shall be collected on behalf of the municipality by the person collecting the receipts, charges or rent from the customer.

b. Each person required to collect a tax imposed by the ordinance shall be personally liable for the tax imposed, collected or required to be collected hereunder. Any such person

shall have the same right in respect to collecting the tax from a customer as if the tax were a part of the rent and payable at the same time; provided, however, that the chief fiscal officer of the municipality shall be joined as a party in any action or proceeding brought to collect the tax.

c. Notwithstanding any other provision of law or administrative action to the contrary, transient space marketplaces shall be required to collect and pay on behalf of persons engaged in the business of providing transient accommodations located in this State the tax for transactions obtained through the transient space marketplace. For not less than four years following the end of the calendar year in which the transaction occurred, the transient space marketplace shall maintain the following data for those transactions consummated through the transient space marketplace:

- (1) The name of the person who provided the transient accommodation;
  - (2) The name of the customer who procured occupancy of the transient accommodation;
  - (3) The address, including any unit designation, of the transient accommodation;
  - (4) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation;
  - (5) The municipal transient accommodation registration number, if applicable;
  - (6) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;
  - (7) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and
  - (8) Such other information as the Division of Taxation may by rule require.
- The Division of Taxation may audit transient space marketplaces as necessary to ensure data accuracy and enforce tax compliance.

5. Section 2 of P.L.1947, c.71 (C.40:48-8.16) is amended to read as follows:

C.40:48-8.16 Tax act definitions.

2. As used in this act:

"Retail sale" or "sale at retail" means and includes:

- (1) Any sale in the ordinary course of business for consumption of whiskey, beer or other alcoholic beverages by the drink in restaurants, cafes, bars, hotels and other similar establishments;
- (2) Any cover charge, minimum charge, entertainment, or other similar charge made to any patron of any restaurant, cafe, bar, hotel or other similar establishment;
- (3) The hiring, with or without service, of any room in any hotel, transient accommodation, inn, rooming or boarding house;
- (4) The hiring of any rolling chair, beach chair or cabana; and
- (5) The granting or sale of any ticket, license or permit for admission to any theatre, moving picture exhibition or show, pier, exhibition, or place of amusement, except charges for admission to boxing, wrestling, kick boxing or combative sports events, matches, or exhibitions, which charges are taxed pursuant to section 20 of P.L.1985, c.83 (C.5:2A-20).

"Vendor" means any person selling or hiring property or services to another person upon the receipts from which a tax is imposed.

“Obtained through a transient space marketplace” means that payment for the accommodation is made through a means provided by the marketplace or travel agency, either directly or indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.

“Professionally managed unit” means a room, group of rooms, or other living or sleeping space for the lodging of occupants in the State, that is offered for rent as a rental unit that does not share any living or sleeping space with any other rental unit, and that is directly or indirectly owned or controlled by a person offering for rent two or more other units during the calendar year. “Purchaser” means any person purchasing or hiring property or services from another person, the receipts from which are taxable.

“Residence” means a house, condominium, or other residential dwelling unit in a building or structure or part of a building or structure that is designed, constructed, leased, rented, let or hired out, or otherwise made available for use as a residence.

“Transient accommodation” means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences, that is obtained through a transient space marketplace or is a professionally managed unit. “Transient accommodation” does not include: a hotel or hotel room; a room, group of rooms, or other living or sleeping space used as a place of assembly; a dormitory or other similar residential facility of an elementary or secondary school or a college or university; a hospital, nursing home, or other similar residential facility of a provider of services for the care, support and treatment of individuals that is licensed by the State; a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; a furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes and similar living units, where no maid service, room service, linen changing service or other common hotel services are made available by the lessor and where the keys to the furnished or unfurnished private residential property, whether a physical key, access to a keyless locking mechanism, or other means of physical ingress to the furnished or unfurnished private residential property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases of real property with a term of at least 90 consecutive days.

“Transient space marketplace” means a marketplace or travel agency through which a person may offer transient accommodations to customers and through which customers may arrange for occupancies of transient accommodations. “Transient space marketplace” does not include a marketplace or travel agency that exclusively offers transient accommodations in the State owned by the owner of the marketplace or travel agency.

6. Section 1 of P.L.1991, c.376 (C.40:48-8.45) is amended to read as follows:

C.40:48-8.45 Definitions.

1. As used in this act:

a. “Convention center operating authority” means, in the case of any eligible municipality, the public authority or other governmental entity empowered to operate convention hall and the convention center facilities in the eligible municipality.

b. “Director” means the Director of the Division of Taxation in the Department of the Treasury.

c. “Eligible municipality” means any municipality in which any portion of the proceeds of a retail sales tax levied by ordinance adopted by the municipality pursuant to section 1 of

P.L.1947, c.71 (C.40:48-8.15) is applied as authorized by law to the payment of costs of convention center facilities located in the municipality.

d. "Hotel" means a building or a portion of a building which is regularly used and kept open as such for the lodging of guests. "Hotel" includes an apartment hotel, a motel, inn, and rooming or boarding house or club, whether or not meals are served, but does not include a transient accommodation.

e. "Obtained through a transient space marketplace" means that payment for the accommodation is made through a means provided by the marketplace or travel agency, either directly or indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.

f. "Occupied room" means a room or rooms of any kind in any part of a hotel or transient accommodation, other than a place of assembly, which is used or possessed by a guest or guests, whether or not for consideration.

g. "Professionally managed unit" means a room, group of rooms, or other living or sleeping space for the lodging of occupants in the State, that is offered for rent as a rental unit that does not share any living or sleeping space with any other rental unit, and that is directly or indirectly owned or controlled by a person offering for rent two or more other units during the calendar year.

h. "Residence" means a house, condominium, or other residential dwelling unit in a building or structure or part of a building or structure that is designed, constructed, leased, rented, let or hired out, or otherwise made available for use as a residence.

i. "Transient accommodation" means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences, that is obtained through a transient space marketplace or is a professionally managed unit. "Transient accommodation" does not include: a hotel or hotel room; a room, group of rooms, or other living or sleeping space used as a place of assembly; a dormitory or other similar residential facility of an elementary or secondary school or a college or university; a hospital, nursing home, or other similar residential facility of a provider of services for the care, support and treatment of individuals that is licensed by the State; a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; a furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes and similar living units, where no maid service, room service, linen changing service or other common hotel services are made available by the lessor and where the keys to the furnished or unfurnished private residential property, whether a physical key, access to a keyless locking mechanism, or other means of physical ingress to the furnished or unfurnished private residential property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases of real property with a term of at least 90 consecutive days.

j. "Transient space marketplace" means a marketplace or travel agency through which a person may offer transient accommodations to customers and through which customers may arrange for occupancies of transient accommodations. "Transient space marketplace" does not include a marketplace or travel agency that exclusively offers transient accommodations in the State owned by the owner of the marketplace or travel agency.

7. Section 5 of P.L.1991, c.376 (C.40:48-8.49) is amended to read as follows:

C.40:48-8.49 Fees; collection, administration.

5. The fees under this act shall be collected and administered by the director, notwithstanding the provisions of any other law to the contrary. In carrying out the provisions of this section, the director shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The director shall determine and certify to the State Treasurer on a monthly basis the amount of revenues collected by the director pursuant to this section on account of the fees imposed pursuant to this act in an eligible municipality which are payable to the convention center operating authority operating convention center facilities in such eligible municipality. The State Treasurer upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a monthly basis to the convention center operating authority the amount so determined and certified.

Notwithstanding any other provision of law or administrative action to the contrary, transient space marketplaces shall be required to collect and pay on behalf of persons engaged in the business of providing transient accommodations located in this State the tax for transactions obtained through the transient space marketplace. For not less than four years following the end of the calendar year in which the transaction occurred, the transient space marketplace shall maintain the following data for those transactions consummated through the transient space marketplace:

- (1) The name of the person who provided the transient accommodation;
- (2) The name of the customer who procured occupancy of the transient accommodation;
- (3) The address, including any unit designation, of the transient accommodation;
- (4) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation;
- (5) The municipal transient accommodation registration number, if applicable;
- (6) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;
- (7) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and
- (8) Such other information as the Division of Taxation may by rule require.

The Division of Taxation may audit transient space marketplaces as necessary to ensure data accuracy and enforce tax compliance.

8. Section 2 of P.L.1981, c.77 (C.40:48E-2) is amended to read as follows:

C.40:48E-2 Definitions.

2. As used in this act "hotel" means a building or portion of a building which is regularly used and kept open as such for the lodging of guests. "Hotel" includes an apartment hotel, a motel, inn, and rooming or boarding house or club, whether or not meals are served, but does not include a transient accommodation.

"Obtained through a transient space marketplace" means that payment for the accommodation is made through a means provided by the marketplace or travel agency, either directly or indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.

"Professionally managed unit" means a room, group of rooms, or other living or sleeping space for the lodging of occupants in the State, that is offered for rent as a rental unit that does

not share any living or sleeping space with any other rental unit, and that is directly or indirectly owned or controlled by a person offering for rent two or more other units during the calendar year. "Residence" means a house, condominium, or other residential dwelling unit in a building or structure or part of a building or structure that is designed, constructed, leased, rented, let or hired out, or otherwise made available for use as a residence.

"Transient accommodation" means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences, that is obtained through a transient space marketplace or is a professionally managed unit. "Transient accommodation" does not include: a hotel or hotel room; a room, group of rooms, or other living or sleeping space used as a place of assembly; a dormitory or other similar residential facility of an elementary or secondary school or a college or university; a hospital, nursing home, or other similar residential facility of a provider of services for the care, support and treatment of individuals that is licensed by the State; a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; a furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes and similar living units, where no maid service, room service, linen changing service or other common hotel services are made available by the lessor and where the keys to the furnished or unfurnished private residential property, whether a physical key, access to a keyless locking mechanism, or other means of physical ingress to the furnished or unfurnished private residential property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases of real property with a term of at least 90 consecutive days.

"Transient space marketplace" means a marketplace or travel agency through which a person may offer transient accommodations to customers and through which customers may arrange for occupancies of transient accommodations. "Transient space marketplace" does not include a marketplace or travel agency that exclusively offers transient accommodations in the State owned by the owner of the marketplace or travel agency.

9. Section 4 of P.L.1981, c.77 (C.40:48E-4) is amended to read as follows:

C.40:48E-4 Collection of tax.

4. a. The tax shall be collected on behalf of the city by the person collecting the use or occupancy charge from the hotel or transient accommodation customer.

b. Every person required to collect any tax imposed by the ordinance shall be personally liable for the tax imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the tax from his customer as if the tax were a part of the use or occupancy charge and payable at the same time; provided, however, that the chief fiscal officer of the city shall be joined as a party in any action or proceeding brought to collect the tax.

c. Notwithstanding any other provision of law or administrative action to the contrary, transient space marketplaces shall be required to collect and pay on behalf of persons engaged in the business of providing transient accommodations located in this State the tax for transactions obtained through the transient space marketplace. For not less than four years following the end of the calendar year in which the transaction occurred, the transient space marketplace shall maintain the following data for those transactions consummated through the transient space marketplace:

- (1) The name of the person who provided the transient accommodation;
- (2) The name of the customer who procured occupancy of the transient accommodation;

- (3) The address, including any unit designation, of the transient accommodation;
- (4) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation;
- (5) The municipal transient accommodation registration number, if applicable;
- (6) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;
- (7) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and
- (8) Such other information as the Division of Taxation may by rule require.

The Division of Taxation may audit transient space marketplaces as necessary to ensure data accuracy and enforce tax compliance.

d. No person required to collect any tax hereunder shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax will not be separately charged and stated to the customer or that the tax will be refunded to the customer.

e. All revenues collected from the tax shall be remitted to the chief fiscal officer of the city on or before the dates on which municipal real property taxes are due.

f. The city shall enforce the payment of delinquent hotel occupancy taxes in the same manner as provided for municipal real property taxes.

10. Section 5 of P.L.2003, c.114 (C.40:48F-3) is amended to read as follows:

C.40:48F-3 Collection of tax.

5. a. A tax imposed pursuant to a municipal ordinance adopted under the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1) shall be collected on behalf of the municipality by the person collecting the rent from the hotel or transient accommodation customer.

b. Each person required to collect a tax imposed by the ordinance shall be personally liable for the tax imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the tax from a customer as if the tax were a part of the rent and payable at the same time; provided, however, that the chief fiscal officer of the municipality shall be joined as a party in any action or proceeding brought to collect the tax.

c. Notwithstanding any other provision of law or administrative action to the contrary, transient space marketplaces shall be required to collect and pay on behalf of persons engaged in the business of providing transient accommodations located in this State the tax for transactions obtained through the transient space marketplace. For not less than four years following the end of the calendar year in which the transaction occurred, the transient space marketplace shall maintain the following data for those transactions consummated through the transient space marketplace:

- (1) The name of the person who provided the transient accommodation;
- (2) The name of the customer who procured occupancy of the transient accommodation;
- (3) The address, including any unit designation, of the transient accommodation;
- (4) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation;

(5) The municipal transient accommodation registration number, if applicable;

(6) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;

(7) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and

(8) Such other information as the Division of Taxation may by rule require.

The Division of Taxation may audit transient space marketplaces as necessary to ensure data accuracy and enforce tax compliance.

11. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to read as follows:

C.40:54D-3 Definitions relative to tourist improvement and development.

3. As used in this act:

"Authority" means a tourism improvement and development authority created pursuant to section 18 of this act, P.L.1992, c.165 (C.40:54D-18).

"Beach operation offset payment " means a payment made by an authority to municipalities in its district for tourism development activities related to operating and maintaining public beaches within a zone to seaward of a line of demarcation located not more than 1,000 feet from the mean high water line.

"Bond" means any bond or note issued by an authority pursuant to the provisions of this act.

"Commissioner" means the Commissioner of the Department of Commerce and Economic Development.

"Construction" means the planning, designing, construction, reconstruction, rehabilitation, replacement, repair, extension, enlargement, improvement and betterment of a project, and includes the demolition, clearance and removal of buildings or structures on land acquired, held, leased or used for a project.

"Convention center facility" means any convention hall or center or like structure or building, and shall include all facilities, including commercial, office, community service, parking facilities and all property rights, easements and interests, and other facilities constructed for the accommodation and entertainment of tourists and visitors, constructed in conjunction with a convention center facility and forming reasonable appurtenances thereto but does not mean the Wildwood convention center facility as defined in this section.

"Tourism project" means the convention center facility or outdoor special events arena, or both, located in the territorial limits of the district, and any costs associated therewith but does not mean the Wildwood convention center facility as defined in this section.

"Cost" means all or any part of the expenses incurred in connection with the acquisition, construction and maintenance of any real property, lands, structures, real or personal property rights, rights-of-way, franchises, easements, and interests acquired or used for a project; any financing charges and reserves for the payment of principal and interest on bonds or notes; the expenses of engineering, appraisal, architectural, accounting, financial and legal services; and other expenses as may be necessary or incident to the acquisition, construction and maintenance of a project, the financing thereof and the placing of the project into operation.

"County" means a county of the sixth class.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Fund" means a Reserve Fund created pursuant to section 13 of P.L.1992, c.165 (C.40:54D-13).

"Outdoor special events arena" means a facility or structure for the holding outdoors of public events, entertainments, sporting events, concerts or similar activities, and shall include all facilities, property rights and interests, and all appurtenances reasonably related thereto, constructed for the accommodation and entertainment of tourists and visitors.

"Participant amusement" means a sporting activity or amusement the charge for which is exempt from taxation under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) by virtue of the participation of the patron in the activity or amusement, such as bowling alleys, swimming pools, water slides, miniature golf, boardwalk or carnival games and amusements, baseball batting cages, tennis courts, and fishing and sightseeing boats.

"Predominantly tourism related retail receipts" means:

a. The rent for every occupancy of a room or rooms in a hotel or transient accommodation subject to taxation pursuant to subsection (d) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3);

b. Receipts from the sale of food and drink in or by restaurants, taverns, or other establishments in the district, or by caterers, including in the amount of such receipt any cover, minimum, entertainment or other charge made to patrons or customers, subject to taxation pursuant to subsection (c) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3) but excluding receipts from sales of food and beverages sold through coin operated vending machines; and

c. Admissions charges to or the use of any place of amusement or of any roof garden, cabaret or similar place, subject to taxation pursuant to subsection (e) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3).

"Obtained through a transient space marketplace" means that payment for the accommodation is made through a means provided by the marketplace or travel agency, either directly or indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.

"Professionally managed unit" means a room, group of rooms, or other living or sleeping space for the lodging of occupants in the State, that is offered for rent as a rental unit that does not share any living or sleeping space with any other rental unit, and that is directly or indirectly owned or controlled by a person offering for rent two or more other units during the calendar year.

"Purchaser" means any person purchasing or hiring property or services from another person, the receipts or charges from which are taxable by an ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

"Residence" means a house, condominium, or other residential dwelling unit in a building or structure or part of a building or structure that is designed, constructed, leased, rented, let or hired out, or otherwise made available for use as a residence.

"Sports authority" means the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.).

"Tourism" means activities involved in providing and marketing services and products, including accommodations, for nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

"Tourism assessment" means an assessment on the rent for every occupancy of a room or rooms in a hotel or transient accommodation subject to taxation pursuant to subsection (d) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3).

"Tourism development activities" include operations of the authority to carry out its statutory duty to promote, advertise and market the district, including making beach operation offset payments.

"Tourism development fee" means a fee imposed by ordinance pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15).

"Tourism improvement and development district" or "district" means an area within two or more contiguous municipalities within a county of the sixth class established pursuant to ordinance enacted by those municipalities, for the purposes of promoting the acquisition, construction, maintenance, operation and support of a tourism project, and to devote the revenue and the proceeds from taxes upon predominantly tourism related retail receipts and from tourism development fees to the purposes as herein defined.

"Tourist industry" means the industry consisting of private and public organizations which directly or indirectly provide services and products to nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

"Tourism lodging" means any dwelling unit, other than a dwelling unit in a hotel the rent for which is subject to taxation under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), regardless of the form of ownership of the unit, rented with or without a lease, whether rented by the owner or by an agent for the owner.

"Transient accommodation" means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences, that is obtained through a transient space marketplace or is a professionally managed unit. "Transient accommodation" does not include: a hotel or hotel room; a room, group of rooms, or other living or sleeping space used as a place of assembly; a dormitory or other similar residential facility of an elementary or secondary school or a college or university; a hospital, nursing home, or other similar residential facility of a provider of services for the care, support and treatment of individuals that is licensed by the State; a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; a furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes and similar living units, where no maid service, room service, linen changing service or other common hotel services are made available by the lessor and where the keys to the furnished or unfurnished private residential property, whether a physical key, access to a keyless locking mechanism, or other means of physical ingress to the furnished or unfurnished private residential property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases of real property with a term of at least 90 consecutive days.

"Transient space marketplace" means a marketplace or travel agency through which a person may offer transient accommodations to customers and through which customers may arrange for occupancies of transient accommodations. "Transient space marketplace" does not include a marketplace or travel agency that exclusively offers transient accommodations in the State owned by the owner of the marketplace or travel agency.

"Vendor" means a person selling or hiring property or services to another person, the receipts or charges from which are taxable by an ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

"Wildwood convention center facility" means the project authorized by paragraph (12) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6).

12. Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to read as follows:

C.40:54D-9 Forwarding of tax assessment collected, filing returns; vendor liability.

9. a. (1) A vendor required to collect the tax upon predominantly tourism related retail receipts or tourism assessment imposed pursuant to this act shall on or before the dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the director the tax and assessments collected in the preceding month and make and file a return for the preceding month with the director on any form and containing any information as the Director of the Division of Taxation in the Department of the Treasury shall prescribe by rule or regulation as necessary to determine liability for the tax and assessment in the preceding month during which the person was required to collect the tax.

(2) A vendor required to collect the tax upon predominantly tourism related retail receipts and the tourism assessment shall be personally liable for the tax or assessment imposed, collected, or required to be paid, collected, or remitted under section 4 of P.L.1992, c.165 (C.40:54D-4). Any such vendor shall have the same right in respect to collecting the tax or assessment from that vendor's customer or in respect to non-payment of the tax or assessment by the customer as if the tax or assessment were a part of the purchase price of the property or service, amusement charge or rent, as the case may be, and payable at the same time; provided however, that the director shall be joined as a party in any action or proceeding brought to collect the tax or assessment.

For purposes of this paragraph, "vendor" includes: an individual, partnership, corporation, or an officer, director, stockholder, or employee of a corporation, or a member or employee of a partnership, who as such officer, director, stockholder, employee, or member is under the duty to perform the act in respect of which the violation occurs.

(3) Notwithstanding any other provision of law or administrative action to the contrary, transient space marketplaces shall be required to collect and pay on behalf of persons engaged in the business of providing transient accommodations located in this State the tax for transactions obtained through the transient space marketplace. For not less than four years following the end of the calendar year in which the transaction occurred, the transient space marketplace shall maintain the following data for those transactions consummated through the transient space marketplace:

- (1) The name of the person who provided the transient accommodation;
- (2) The name of the customer who procured occupancy of the transient accommodation;
- (3) The address, including any unit designation, of the transient accommodation;
- (4) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation;
- (5) The municipal transient accommodation registration number, if applicable;
- (6) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;
- (7) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and
- (8) Such other information as the Division of Taxation may by rule require.

The Division of Taxation may audit transient space marketplaces as necessary to ensure data accuracy and enforce tax compliance.

b. The director may permit or require returns to be made covering other periods and upon any dates as the director may specify. In addition, the director may require payments of

tax and assessment liability at any intervals and based upon any classifications as the director may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax and assessment liability, the director may take into account the dollar volume of tax and assessment involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

c. The director may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

d. The director shall inform the authority for each month in which this tax and assessment is collected and returns made of the amount so collected in each month.

13. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read as follows:

C.54:32B-2 Definitions.

2. Unless the context in which they occur requires otherwise, the following terms when used in this act shall mean:

(a) "Person" includes an individual, trust, partnership, limited partnership, limited liability company, society, association, joint stock company, corporation, public corporation or public authority, estate, receiver, trustee, assignee, referee, fiduciary and any other legal entity.

(b) "Purchase at retail" means a purchase by any person at a retail sale.

(c) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(d) "Receipt" means the amount of the sales price of any tangible personal property, specified digital product or service taxable under this act.

(e) "Retail sale" means any sale, lease, or rental for any purpose, other than for resale, sublease, or subrent.

(1) For the purposes of this act a sale is for "resale, sublease, or subrent" if it is a sale (A) for resale either as such or as converted into or as a component part of a product produced for sale by the purchaser, including the conversion of natural gas into another intermediate or end product, other than electricity or thermal energy, produced for sale by the purchaser, (B) for use by that person in performing the services subject to tax under subsection (b) of section 3 where the property so sold becomes a physical component part of the property upon which the services are performed or where the property so sold is later actually transferred to the purchaser of the service in conjunction with the performance of the service subject to tax, (C) of telecommunications service to a telecommunications service provider for use as a component part of telecommunications service provided to an ultimate customer, or (D) to a person who receives by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to another person, other than rights to redistribute based on statutory or common law doctrine such as fair use.

(2) For the purposes of this act, the term "retail sale" includes: sales of tangible personal property to all contractors, subcontractors or repairmen of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering, or repairing real property of others.

(3) (Deleted by amendment, P.L.2005, c.126).

(4) The term "retail sale" does not include:

(A) Professional, insurance, or personal service transactions which involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(B) The transfer of tangible personal property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation effected under the laws of New Jersey or any other jurisdiction.

(C) The distribution of property by a corporation to its stockholders as a liquidating dividend.

(D) The distribution of property by a partnership to its partners in whole or partial liquidation.

(E) The transfer of property to a corporation upon its organization in consideration for the issuance of its stock.

(F) The contribution of property to a partnership in consideration for a partnership interest therein.

(G) The sale of tangible personal property where the purpose of the vendee is to hold the thing transferred as security for the performance of an obligation of the seller.

(f) "Sale, selling or purchase" means any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this act, for a consideration or any agreement therefor.

(g) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes electricity, water, gas, steam, and prewritten computer software including prewritten computer software delivered electronically.

(h) "Use" means the exercise of any right or power over tangible personal property, specified digital products, services to property or products, or services by the purchaser thereof and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any distribution, any installation, any affixation to real or personal property, or any consumption of such property or products. Use also includes the exercise of any right or power over intrastate or interstate telecommunications and prepaid calling services. Use also includes the exercise of any right or power over utility service. Use also includes the derivation of a direct or indirect benefit from a service.

(i) "Seller" means a person making sales, leases or rentals of personal property or services.

(1) The term "seller" includes:

(A) A person making sales, leases or rentals of tangible personal property, specified digital products or services, the receipts from which are taxed by this act;

(B) A person maintaining a place of business in the State or having an agent maintaining a place of business in the State and making sales, whether at such place of business or elsewhere, to persons within the State of tangible personal property, specified digital products or services, the use of which is taxed by this act;

(C) A person who solicits business either by employees, independent contractors, agents or other representatives or by distribution of catalogs or other advertising matter and by reason thereof makes sales to persons within the State of tangible personal property, specified digital products or services, the use of which is taxed by this act.

A person making sales of tangible personal property, specified digital products, or services taxable under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be soliciting business through an independent contractor or other representative if the person making sales enters into an agreement with an independent contractor having physical presence in this State or other representative having physical presence in this State, for a commission or other consideration, under which the independent contractor or representative directly or indirectly refers potential customers, whether by a link on an internet website or otherwise, and the cumulative gross receipts from sales to customers in this State who were referred by all independent contractors or representatives that have this type of an agreement

with the person making sales are in excess of \$10,000 during the preceding four quarterly periods ending on the last day of March, June, September, and December. This presumption may be rebutted by proof that the independent contractor or representative with whom the person making sales has an agreement did not engage in any solicitation in the State on behalf of the person that would satisfy the nexus requirements of the United States Constitution during the four quarterly periods in question. Nothing in this subparagraph shall be construed to narrow the scope of the terms independent contractor or other representative for purposes of any other provision of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.);

(D) Any other person making sales to persons within the State of tangible personal property, specified digital products or services, the use of which is taxed by this act, who may be authorized by the director to collect the tax imposed by this act;

(E) The State of New Jersey, any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another state) or political subdivisions when such entity sells services or property of a kind ordinarily sold by private persons;

(F) (Deleted by amendment, P.L.2005, c.126);

(G) A person who sells, stores, delivers or transports energy to users or customers in this State whether by mains, lines or pipes located within this State or by any other means of delivery;

(H) A person engaged in collecting charges in the nature of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization;

(I) A person engaged in the business of parking, storing or garaging motor vehicles;

(J) A person making sales, leases, or rentals of tangible personal property, specified digital products, or taxable services who meets the criteria set forth in paragraph (1) or (2) of section 1 of P.L.2018, c.132 (C.54:32B-3.5); and

(K) A marketplace facilitator.

(2) In addition, when in the opinion of the director it is necessary for the efficient administration of this act to treat any salesman, representative, peddler or canvasser as the agent of the seller, distributor, supervisor or employer under whom the agent operates or from whom the agent obtains tangible personal property or a specified digital product sold by the agent or for whom the agent solicits business, the director may, in the director's discretion, treat such agent as the seller jointly responsible with the agent's principal, distributor, supervisor or employer for the collection and payment over of the tax. A person is an agent of a seller in all cases, but not limited to such cases, that: (A) the person and the seller have the relationship of a "related person" described pursuant to section 2 of P.L.1993, c.170 (C.54:10A-5.5); and (B) the seller and the person use an identical or substantially similar name, tradename, trademark, or goodwill, to develop, promote, or maintain sales, or the person and the seller pay for each other's services in whole or in part contingent upon the volume or value of sales, or the person and the seller share a common business plan or substantially coordinate their business plans, or the person provides services to, or that inure to the benefit of, the seller related to developing, promoting, or maintaining the seller's market.

(3) Notwithstanding any other provision of law or administrative action to the contrary, transient space marketplaces shall be required to collect and pay on behalf of persons engaged in the business of providing transient accommodations located in this State the tax for transactions obtained through the transient space marketplace. For not less than four years following the end of the calendar year in which the transaction occurred, the transient space marketplace shall

maintain the following data for those transactions consummated through the transient space marketplace:

(A) The name of the person who provided the transient accommodation;

(B) The name of the customer who procured occupancy of the transient accommodation;

(C) The address, including any unit designation, of the transient accommodation;

(D) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation;

(E) The municipal transient accommodation registration number, if applicable;

(F) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;

(G) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and

(H) Such other information as the Division of Taxation may by rule require.

The Division of Taxation may audit transient space marketplaces as necessary to ensure data accuracy and enforce tax compliance.

(j) "Hotel" means a building or portion of a building which is regularly used and kept open as such for the lodging of guests. "Hotel" includes an apartment hotel, a motel, inn, and rooming or boarding house or club, whether or not meals are served, but does not include a transient accommodation.

(k) "Occupancy" means the use or possession or the right to the use or possession, of any room in a hotel or transient accommodation.

(l) "Occupant" means a person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel or transient accommodation under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(m) "Permanent resident" means any occupant of any room or rooms in a hotel or transient accommodation for at least 90 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(n) "Room" means any room or rooms of any kind in any part or portion of a hotel or transient accommodation, which is available for or let out for any purpose other than a place of assembly.

(o) "Admission charge" means the amount paid for admission, including any service charge and any charge for entertainment or amusement or for the use of facilities therefor.

(p) "Amusement charge" means any admission charge, dues or charge of a roof garden, cabaret or other similar place.

(q) "Charge of a roof garden, cabaret or other similar place" means any charge made for admission, refreshment, service, or merchandise at a roof garden, cabaret or other similar place.

(r) "Dramatic or musical arts admission charge" means any admission charge paid for admission to a theater, opera house, concert hall or other hall or place of assembly for a live, dramatic, choreographic or musical performance.

(s) "Lessor" means any person who is the owner, licensee, or lessee of any premises, tangible personal property or a specified digital product which the person leases, subleases, or grants a license to use to other persons.

(t) "Place of amusement" means any place where any facilities for entertainment, amusement, or sports are provided.

(u) "Casual sale" means an isolated or occasional sale of an item of tangible personal property or a specified digital product by a person who is not regularly engaged in the business of making retail sales of such property or product where the item of tangible personal property or the specified digital product was obtained by the person making the sale, through purchase or otherwise, for the person's own use.

(v) "Motor vehicle" includes all vehicles propelled otherwise than by muscular power (excepting such vehicles as run only upon rails or tracks), trailers, semitrailers, house trailers, or any other type of vehicle drawn by a motor-driven vehicle, and motorcycles, designed for operation on the public highways.

(w) "Persons required to collect tax" or "persons required to collect any tax imposed by this act" includes: every seller of tangible personal property, specified digital products or services; every recipient of amusement charges; every operator of a hotel or transient accommodation; every transient space marketplace; every marketplace facilitator; every seller of a telecommunications service; every recipient of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization; and every recipient of charges for parking, storing or garaging a motor vehicle. Said terms shall also include any officer or employee of a corporation or of a dissolved corporation who as such officer or employee is under a duty to act for such corporation in complying with any requirement of this act and any member of a partnership.

(x) "Customer" includes: every purchaser of tangible personal property, specified digital products or services; every patron paying or liable for the payment of any amusement charge; every occupant of a room or rooms in a hotel or transient accommodation; every person paying charges in the nature of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization; and every purchaser of parking, storage or garaging a motor vehicle.

(y) "Property and services the use of which is subject to tax" includes: (1) all property sold to a person within the State, whether or not the sale is made within the State, the use of which property is subject to tax under section 6 or will become subject to tax when such property is received by or comes into the possession or control of such person within the State; (2) all services rendered to a person within the State, whether or not such services are performed within the State, upon tangible personal property or a specified digital product the use of which is subject to tax under section 6 or will become subject to tax when such property or product is distributed within the State or is received by or comes into possession or control of such person within the State; (3) intrastate, interstate, or international telecommunications sourced to this State pursuant to section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by amendment, P.L.1995, c.184); (5) energy sold, exchanged or delivered in this State for use in this State; (6) utility service sold, exchanged or delivered in this State for use in this State; (7) mail processing services in connection with printed advertising material distributed in this State; (8) (Deleted by amendment, P.L.2005, c.126); and (9) services the benefit of which are received in this State.

(z) "Director" means the Director of the Division of Taxation in the State Department of the Treasury, or any officer, employee or agency of the Division of Taxation in the Department of the Treasury duly authorized by the director (directly, or indirectly by one or more redelegations of authority) to perform the functions mentioned or described in this act.

(aa) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A "lease or rental" may include future options to purchase or extend.

(1) "Lease or rental" does not include:

(A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(B) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or one percent of the total required payments; or

(C) Providing tangible personal property or a specified digital product along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subparagraph, an operator must do more than maintain, inspect, or set-up the tangible personal property or specified digital product.

(2) "Lease or rental" does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. s.7701(h)(1).

(3) The definition of "lease or rental" provided in this subsection shall be used for the purposes of this act regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the federal Internal Revenue Code or other provisions of federal, state or local law.

(bb) (Deleted by amendment, P.L.2005, c.126).

(cc) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

"Telecommunications service" shall include such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added.

"Telecommunications service" shall not include:

(1) (Deleted by amendment, P.L.2008, c.123);

(2) (Deleted by amendment, P.L.2008, c.123);

(3) (Deleted by amendment, P.L.2008, c.123);

(4) (Deleted by amendment, P.L.2008, c.123);

(5) (Deleted by amendment, P.L.2008, c.123);

(6) (Deleted by amendment, P.L.2008, c.123);

(7) data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information;

(8) installation or maintenance of wiring or equipment on a customer's premises;

(9) tangible personal property;

(10) advertising, including but not limited to directory advertising;

(11) billing and collection services provided to third parties;

(12) internet access service;

(13) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as defined in section 47 U.S.C. s.522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in section 47 C.F.R. 20.3;

(14) ancillary services; or

(15) digital products delivered electronically, including but not limited to software, music, video, reading materials, or ringtones.

For the purposes of this subsection:

"ancillary service" means a service that is associated with or incidental to the provision of telecommunications services, including but not limited to detailed telecommunications billing, directory assistance, vertical service, and voice mail service; "conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge;

"detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement;

"directory assistance" means an ancillary service of providing telephone number information or address information or both;

"vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services; and

"voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical service that a customer may be required to have to utilize the voice mail service.

(dd) (1) "Intrastate telecommunications" means a telecommunications service that originates in one United States state or a United States territory or possession or federal district, and terminates in the same United States state or United States territory or possession or federal district.

(2) "Interstate telecommunications" means a telecommunications service that originates in one United States state or a United States territory or possession or federal district, and terminates in a different United States state or United States territory or possession or federal district.

(3) "International telecommunications" means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. "United States" includes the District of Columbia or a United States territory or possession.

(ee) (Deleted by amendment, P.L.2008, c.123)

(ff) "Natural gas" means any gaseous fuel distributed through a pipeline system.

(gg) "Energy" means natural gas or electricity.

(hh) "Utility service" means the transportation or transmission of natural gas or electricity by means of mains, wires, lines or pipes, to users or customers.

(ii) "Self-generation unit" means a facility located on the user's property, or on property purchased or leased from the user by the person owning the self-generation unit and such property is contiguous to the user's property, which generates electricity to be used only by that user on the user's property and is not transported to the user over wires that cross a property line or public thoroughfare unless the property line or public thoroughfare merely bifurcates the user's or self-generation unit owner's otherwise contiguous property.

(jj) "Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy which are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L.95-617.

(kk) "Non-utility" means a company engaged in the sale, exchange or transfer of natural gas that was not subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to December 31, 1997.

(ll) "Pre-paid calling service" means the right to access exclusively telecommunications services, which shall be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(mm) "Mobile telecommunications service" means the same as that term is defined in the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).

(nn) (Deleted by amendment, P.L.2008, c.123)

(oo) (1) "Sales price" is the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;

(B) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(C) Charges by the seller for any services necessary to complete the sale;

(D) Delivery charges;

(E) (Deleted by amendment, P.L.2011, c.49); and

(F) (Deleted by amendment, P.L.2008, c.123).

(2) "Sales price" does not include:

(A) Discounts, including cash, term, or coupons that are not reimbursed by a third party, that are allowed by a seller and taken by a purchaser on a sale;

(B) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(C) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(D) The amount of sales price for which food stamps have been properly tendered in full or part payment pursuant to the federal Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or

(E) Credit for any trade-in of property of the same kind accepted in part payment and intended for resale if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(3) "Sales price" includes consideration received by the seller from third parties if:

(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(B) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(D) One of the following criteria is met:

(i) the purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(ii) the purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount; provided however, that a preferred customer card that is available to any patron does not constitute membership in such a group; or

(iii) the price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

(4) In the case of a bundled transaction that includes a telecommunications service, an ancillary service, internet access, or an audio or video programming service, if the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products is subject to tax unless the provider can identify by reasonable and verifiable standards such portion from its books and records that are kept in the regular course of business for other purposes, including non-tax purposes.

(pp) "Purchase price" means the measure subject to use tax and has the same meaning as "sales price."

(qq) "Sales tax" means the tax imposed on certain transactions pursuant to the provisions of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

(rr) "Delivery charges" means charges by the seller for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. If a shipment includes both exempt and taxable property, the seller should allocate the delivery charge by using: (1) a percentage based on the total sales price of the taxable property compared to the total sales price of all property in the shipment; or (2) a percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment. The seller shall tax the percentage of the delivery charge allocated to the taxable property but is not required to tax the percentage allocated to the exempt property.

(ss) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser in cases in which the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(tt) "Streamlined Sales and Use Tax Agreement" means the agreement entered into as governed and authorized by the "Uniform Sales and Use Tax Administration Act," P.L.2001, c.431 (C.54:32B-44 et seq.).

(uu) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

(vv) (Deleted by amendment, P.L.2011, c.49)

(ww) "Landscaping services" means services that result in a capital improvement to land other than structures of any kind whatsoever, such as: seeding, sodding or grass plugging of new lawns; planting trees, shrubs, hedges, plants; and clearing and filling land.

(xx) "Investigation and security services" means:

(1) investigation and detective services, including detective agencies and private investigators, and fingerprint, polygraph, missing person tracing and skip tracing services;

(2) security guard and patrol services, including bodyguard and personal protection, guard dog, guard, patrol, and security services;

(3) armored car services; and

(4) security systems services, including security, burglar, and fire alarm installation, repair or monitoring services.

(yy) "Information services" means the furnishing of information of any kind, which has been collected, compiled, or analyzed by the seller, and provided through any means or method, other than personal or individual information which is not incorporated into reports furnished to other people.

(zz) "Specified digital product" means an electronically transferred digital audio-visual work, digital audio work, or digital book; provided however, that a digital code which provides a purchaser with a right to obtain the product shall be treated in the same manner as a specified digital product.

(aaa) "Digital audio-visual work" means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(bbb) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including a ringtone.

(ccc) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(ddd) "Transferred electronically" means obtained by the purchaser by means other than tangible storage media.

(eee) "Ringtone" means a digitized sound file that is downloaded onto a device and that may be used to alert the purchaser with respect to a communication.

(fff) "Residence" means a house, condominium, or other residential dwelling unit in a building or structure or part of a building or structure that is designed, constructed, leased, rented, let or hired out, or otherwise made available for use as a residence.

(ggg) "Transient accommodation" means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences, that is obtained through a transient space marketplace or is a professionally managed unit. "Transient accommodation" does not include: a hotel or hotel room; a room, group of rooms, or other living or sleeping space used as a place of assembly; a dormitory or other similar residential facility of an elementary or secondary school or a college or university; a hospital, nursing home, or other similar residential facility of a provider of services for the care, support and treatment of individuals that is licensed by the State; a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; a furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes and similar living units, where no maid service, room service, linen changing service or other common hotel services are made available by the lessor and where the keys to the furnished or unfurnished private residential property, whether a physical key, access to a keyless locking mechanism, or other means of physical ingress to the furnished or unfurnished private residential property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases of real property with a term of at least 90 consecutive days.

(hhh) "Transient space marketplace" means a marketplace or travel agency through which a person may offer transient accommodations to customers and through which customers may arrange for occupancies of transient accommodations. "Transient space marketplace" does not include a marketplace or travel agency that exclusively offers transient accommodations in the State owned by the owner of the marketplace or travel agency.

(iii) "Professionally managed unit" means a room, group of rooms, or other living or sleeping space for the lodging of occupants in the State, that is offered for rent as a rental unit that does not share any living or sleeping space with any other rental unit, and that is directly or indirectly

owned or controlled by a person offering for rent two or more other units during the calendar year.

(jjj) "Obtained through a transient space marketplace" means that payment for the accommodation is made through a means provided by the marketplace or travel agency, either directly or indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.

14. Section 1 of P.L.1980, c.60 (C.54:32B-24.1) is amended to read as follows:

C.54:32B-24.1 Collection of retail sales tax; vendor liability.

1. a. The director shall collect and administer any tax imposed pursuant to the provisions of P.L.1947, c.71 (C.40:48-8.15 et seq.), amended and supplemented by P.L.1979, c.273, notwithstanding the provisions of any other law or ordinance to the contrary. In carrying out the provisions of this supplementary act the director shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.).

b. The director shall determine and certify to the State Treasurer on a monthly basis the amount of revenues payable to any municipality which has enacted a tax pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.) and collected by the director pursuant to this supplementary act. The State Treasurer upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a monthly basis to each municipality the amount so determined and certified.

c. The director may furnish to a municipality, at his discretion, copies of tax reports or returns relating to taxes imposed under any municipal ordinance heretofore adopted by that municipality pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.).

d. (1) Each vendor required to collect the tax imposed by a municipal ordinance which was adopted pursuant to the provisions of P.L.1947, c.71 (C.40:48-8.15 et seq.) shall be personally liable for the tax imposed, collected, or required to be paid, collected, or remitted under the ordinance. Any such vendor shall have the same right in respect to collecting the tax from that vendor's customer or in respect to non-payment of the tax by the customer as if the tax were a part of the purchase price of the property or service, amusement charge or rent, as the case may be, and payable at the same time; provided however, that the director shall be joined as a party in any action or proceeding brought to collect the tax.

(2) For purposes of this subsection, "vendor" includes: an individual, partnership, corporation, or an officer, director, stockholder, or employee of a corporation, or a member or employee of a partnership, who as such officer, director, stockholder, employee, or member is under the duty to perform the act in respect of which the violation occurs.

e. Notwithstanding any other provision of law or administrative action to the contrary, transient space marketplaces shall be required to collect and pay on behalf of persons engaged in the business of providing transient accommodations located in this State the tax for transactions obtained through the transient space marketplace. For not less than four years following the end of the calendar year in which the transaction occurred, the transient space marketplace shall maintain the following data for those transactions consummated through the transient space marketplace:

- (1) The name of the person who provided the transient accommodation;
- (2) The name of the customer who procured occupancy of the transient accommodation;
- (3) The address, including any unit designation, of the transient accommodation;
- (4) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation;

(5) The municipal transient accommodation registration number, if applicable;

(6) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;

(7) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and

(8) Such other information as the Division of Taxation may by rule require.

The Division of Taxation may audit transient space marketplaces as necessary to ensure data accuracy and enforce tax compliance.

15. Section 2 of P.L.2003, c.114 (C.54:32D-2) is amended to read as follows:

C.54:32D-2 Collection, administration of fee; liability for fees.

2. a. The Director of the Division of Taxation shall collect and administer the fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1). The fees collected shall be deposited to the General Fund, and shall be allocated as follows:

(1) of the fees collected for occupancies during State Fiscal Year 2004: \$16,000,000 shall be allocated for appropriation to the New Jersey State Council on the Arts for cultural projects; \$2,700,000 shall be allocated for appropriation to the New Jersey Historical Commission for the purposes of subsection a. of section 3 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated for appropriation to the New Jersey Commerce and Economic Growth Commission for tourism advertising and promotion; and \$500,000 shall be allocated for appropriation to the New Jersey Cultural Trust; and

(2) of the fees collected for occupancies during State Fiscal Year 2005 and thereafter: 22.68 percent shall be annually allocated for appropriation to the New Jersey State Council on the Arts for cultural projects, provided that the amount allocated shall not be less than \$22,680,000; 3.84 percent shall be allocated for appropriation to the New Jersey Historical Commission for the purposes of subsection a. of section 3 of P.L.1999, c.131 (C.18A:73-22.3), provided that the amount allocated shall not be less than \$3,840,000; 12.76 percent shall be allocated for appropriation to the New Jersey Commerce and Economic Growth Commission for tourism advertising and promotion, provided that the amount allocated shall not be less than \$12,760,000; and .72 percent shall be allocated for appropriation to the New Jersey Cultural Trust, provided that the amount allocated shall not be less than \$720,000.

b. (1) In carrying out the provisions of section 1 of P.L.2003, c.114 (C.54:32D-1) and this section, the director shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The tax shall be filed and paid in a manner prescribed by the Director of the Division of Taxation. The director shall promulgate such rules and regulations as the director determines are necessary to effectuate the provisions of section 1 of P.L.2003, c.114 (C.54:32D-1) and this section.

(2) Each person required to collect the hotel and motel occupancy fee shall be personally liable for the fee imposed, collected, or required to be paid, collected, or remitted under section 1 of P.L.2003, c.114 (C.54:32D-1). Any such person shall have the same right in respect to collecting the fee from that person's customer or in respect to non-payment of the fee by the customer as if the fee were a part of the purchase price of the occupancy or rent, as

the case may be, and payable at the same time; provided however, that the director shall be joined as a party in any action or proceeding brought to collect the fee.

For purposes of this paragraph, "person" includes: an individual, partnership, corporation, or an officer, director, stockholder, or employee of a corporation, or a member or employee of a partnership, who as such officer, director, stockholder, employee, or member is under the duty to perform the act in respect of which the violation occurs.

(3) Notwithstanding any other provision of law or administrative action to the contrary, transient space marketplaces shall be required to collect and pay on behalf of persons engaged in the business of providing transient accommodations located in this State the tax for transactions obtained through the transient space marketplace. For not less than four years following the end of the calendar year in which the transaction occurred, the transient space marketplace shall maintain the following data for those transactions consummated through the transient space marketplace:

- (1) The name of the person who provided the transient accommodation;
- (2) The name of the customer who procured occupancy of the transient accommodation;
- (3) The address, including any unit designation, of the transient accommodation;
- (4) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation;
- (5) The municipal transient accommodation registration number, if applicable;
- (6) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;
- (7) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and
- (8) Such other information as the Division of Taxation may by rule require.

The Division of Taxation may audit transient space marketplaces as necessary to ensure data accuracy and enforce tax compliance.

c. The annual appropriations act for each State Fiscal Year, commencing with fiscal year 2005, shall appropriate and distribute during that fiscal year amounts not less than the amounts otherwise specified for State Fiscal Year 2004 in paragraph (1) of subsection a. of this section for the purposes specified in paragraph (1) of subsection a. of this section.

d. If the provisions of subsection c. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate the provisions of subsection c. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates the provisions of subsection c. of this section, certify to the Director of the Division of Taxation that the requirements of subsection c. of this section have not been met.

e. The Director of the Division of Taxation shall, no later than five days after certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection d. of this section that the provisions of subsection c. of this section have not been met or have been violated by an amendment or supplement to the annual appropriations act, notify each person required to collect tax of the certification and

that the fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1) shall no longer be paid or collected.

16. Section 3 of P.L.2003, c.114 (C.40:48F-1) is amended to read as follows:

C.40:48F-1 Tax authorized, certain.

3. The governing body of a municipality, other than a city of the first class or a city of the second class in which the tax authorized under P.L.1981, c.77 (C.40:48E-1 et seq.) is imposed, a city of the fourth class in which the tax authorized under P.L.1947, c.71 (C.40:48-8.15 et seq.) is imposed, or a municipality in which the tax and assessment authorized under section 4 of P.L.1992, c.165 (C.40:54D-4) is imposed, may adopt an ordinance imposing a tax, at a uniform percentage rate not to exceed 1% on charges of rent for every occupancy on or after July 1, 2003 but before July 1, 2004, and not to exceed 3% on charges of rent for every occupancy on or after July 1, 2004, of a room or rooms in a hotel or transient accommodation subject to taxation pursuant to subsection (d) of section 3 of P.L.1966, c.30 (C.54:32B-3). An ordinance so adopted may also require that unpaid taxes under this section shall be subject to interest at the rate of 5% per annum.

A tax imposed under this section shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the occupancy of a hotel room.

A copy of an ordinance adopted pursuant to this section shall be transmitted upon adoption or amendment to the State Treasurer, together with a list of the names and addresses of all of the hotels, motels, and transient accommodations located in the municipality. An ordinance so adopted or any amendment thereto shall provide that the tax provisions of the ordinance or any amendment to the tax provisions shall take effect on the first day of the first full month occurring 30 days after the date of transmittal to the State Treasurer for ordinances adopted in calendar year 2003 and on the first day of the first full month occurring 90 days after the date of transmittal to the State Treasurer for ordinances adopted in calendar year 2004 and thereafter.

A municipality that has adopted an ordinance pursuant to this section shall annually provide to the State Treasurer, not later than January 1 of each year, a list of the names and addresses of all of the hotels, motels, and transient accommodations located in the municipality. A municipality shall also provide to the State Treasurer the name and address of any hotel or motel that commences operation after January 1 of any year.

17. This act shall take effect immediately.

Approved August 9, 2019.