

CHAPTER 333

AN ACT increasing the minimum amounts to be annually appropriated for certain arts, historical heritage, and tourism purposes from hotel and motel occupancy fee revenues and amending P.L.2003, c.114.

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

1. 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 Division of Travel and Tourism in the Department of State 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 of the fees collected for occupancies during State Fiscal Year 2021 and thereafter the amount allocated shall not be less than \$31,900,000; 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 of the fees collected for occupancies during State Fiscal Year 2021 and thereafter the amount allocated shall not be less than \$5,500,000; 12.76 percent shall be allocated for appropriation to the Division of Travel and Tourism in the Department of State for tourism advertising and promotion, provided that of the fees collected for occupancies during State Fiscal Year 2021 and thereafter the amount allocated shall not be less than \$17,600,000; 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 2005 in paragraph (2) of subsection a. of this section for the purposes specified in paragraph (2) 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.

2. This act shall take effect immediately.

Approved January 13, 2020.