

ASSEMBLY, No. 2410

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

SYNOPSIS

Clarifies definition of “professionally managed unit” for transient accommodation taxes.

CURRENT VERSION OF TEXT

As introduced.



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

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 84 of P.L.2015, c.19 (C.5:10A-84) is amended to read
8 as follows:

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

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

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

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

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

29 "Professionally managed unit" means a room, group of rooms, or
30 other living or sleeping space for the lodging of occupants in the
31 State, that is offered for rent as a rental unit that does not share any
32 living or sleeping space with any other rental unit, and that is
33 directly or indirectly owned or controlled by a person offering for
34 rent two or more other units during the calendar year, provided that
35 the units are not: a hotel or hotel room; a room, group of rooms, or
36 other living or sleeping space used as a place of assembly; a
37 dormitory or other similar residential facility of an elementary or
38 secondary school or a college or university; a hospital, nursing
39 home, or other similar residential facility of a provider of services
40 for the care, support and treatment of individuals that is licensed by
41 the State; a campsite, cabin, lean-to, or other similar residential
42 facility of a campground or an adult or youth camp; a furnished or
43 unfurnished private residential property, including but not limited to
44 condominiums, bungalows, single-family homes and similar living
45 units, where no maid service, room service, linen changing service

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 or other common hotel services are made available by the lessor and
2 where the keys to the furnished or unfurnished private residential
3 property, whether a physical key, access to a keyless locking
4 mechanism, or other means of physical ingress to the furnished or
5 unfurnished private residential property, are provided to the lessee
6 at the location of an offsite real estate broker licensed by the New
7 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or
8 leases of real property with a term of at least 90 consecutive days.

9 "Public venue" means any place located within the Meadowlands
10 district, whether publicly or privately owned, where any facilities
11 for entertainment, amusement, or sports are provided, but shall not
12 include a movie theater.

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

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

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

45 "Transient space marketplace" means a marketplace or travel
46 agency through which a person may offer transient accommodations
47 to customers and through which customers may arrange for
48 occupancies of transient accommodations. "Transient space

1 marketplace" does not include a marketplace or travel agency that
2 exclusively offers transient accommodations in the State owned by
3 the owner of the marketplace or travel agency.

4 (cf: P.L.2019, c.235, s.1)

5
6 2. Section 3 of P.L.2007, c.30 (C.34:1B-192) is amended to
7 read as follows:

8 3. As used in this act:

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

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

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

18 "Eligible municipality" means a municipality: (1) in which is
19 located part of an urban enterprise zone that has been designated
20 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any
21 supplement thereto; and (2) which has a population greater than
22 25,000 and less than 29,000 according to the latest federal decennial
23 census in a county of the third class with a population density
24 greater than 295 and less than 304 persons per square mile
25 according to the latest federal decennial census.

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

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

42 "Professionally managed unit" means a room, group of rooms, or
43 other living or sleeping space for the lodging of occupants in the
44 State, that is offered for rent as a rental unit that does not share any
45 living or sleeping space with any other rental unit, and that is
46 directly or indirectly owned or controlled by a person offering for
47 rent two or more other units during the calendar year, provided that
48 the units are not: a hotel or hotel room; a room, group of rooms, or

1 other living or sleeping space used as a place of assembly; a
2 dormitory or other similar residential facility of an elementary or
3 secondary school or a college or university; a hospital, nursing
4 home, or other similar residential facility of a provider of services
5 for the care, support and treatment of individuals that is licensed by
6 the State; a campsite, cabin, lean-to, or other similar residential
7 facility of a campground or an adult or youth camp; a furnished or
8 unfurnished private residential property, including but not limited to
9 condominiums, bungalows, single-family homes and similar living
10 units, where no maid service, room service, linen changing service
11 or other common hotel services are made available by the lessor and
12 where the keys to the furnished or unfurnished private residential
13 property, whether a physical key, access to a keyless locking
14 mechanism, or other means of physical ingress to the furnished or
15 unfurnished private residential property, are provided to the lessee
16 at the location of an offsite real estate broker licensed by the New
17 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or
18 leases of real property with a term of at least 90 consecutive days.

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

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

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

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

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

44 "Transient accommodation" means a room, group of rooms, or
45 other living or sleeping space for the lodging of occupants,
46 including but not limited to residences or buildings used as
47 residences, that is obtained through a transient space marketplace or
48 is a professionally managed unit. "Transient accommodation" does

1 not include: a hotel or hotel room; a room, group of rooms, or other
2 living or sleeping space used as a place of assembly; a dormitory or
3 other similar residential facility of an elementary or secondary
4 school or a college or university; a hospital, nursing home, or other
5 similar residential facility of a provider of services for the care,
6 support and treatment of individuals that is licensed by the State; a
7 campsite, cabin, lean-to, or other similar residential facility of a
8 campground or an adult or youth camp; a furnished or unfurnished
9 private residential property, including but not limited to
10 condominiums, bungalows, single-family homes and similar living
11 units, where no maid service, room service, linen changing service
12 or other common hotel services are made available by the lessor and
13 where the keys to the furnished or unfurnished private residential
14 property, whether a physical key, access to a keyless locking
15 mechanism, or other means of physical ingress to the furnished or
16 unfurnished private residential property, are provided to the lessee
17 at the location of an offsite real estate broker licensed by the New
18 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or
19 leases of real property with a term of at least 90 consecutive days.

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

27 (cf: P.L.2019, c.235, s.3)

28

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

31 2. As used in this act:

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

33 (1) Any sale in the ordinary course of business for consumption
34 of whiskey, beer or other alcoholic beverages by the drink in
35 restaurants, cafes, bars, hotels and other similar establishments;

36 (2) Any cover charge, minimum charge, entertainment, or other
37 similar charge made to any patron of any restaurant, cafe, bar, hotel
38 or other similar establishment;

39 (3) The hiring, with or without service, of any room in any
40 hotel, transient accommodation, inn, rooming or boarding house;

41 (4) The hiring of any rolling chair, beach chair or cabana; and

42 (5) The granting or sale of any ticket, license or permit for
43 admission to any theatre, moving picture exhibition or show, pier,
44 exhibition, or place of amusement, except charges for admission to
45 boxing, wrestling, kick boxing or combative sports events, matches,
46 or exhibitions, which charges are taxed pursuant to section 20 of
47 P.L.1985, c.83 (C.5:2A-20).

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

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

9 "Professionally managed unit" means a room, group of rooms, or
10 other living or sleeping space for the lodging of occupants in the
11 State, that is offered for rent as a rental unit that does not share any
12 living or sleeping space with any other rental unit, and that is
13 directly or indirectly owned or controlled by a person offering for
14 rent two or more other units during the calendar year, provided that
15 the units are not: a hotel or hotel room; a room, group of rooms, or
16 other living or sleeping space used as a place of assembly; a
17 dormitory or other similar residential facility of an elementary or
18 secondary school or a college or university; a hospital, nursing
19 home, or other similar residential facility of a provider of services
20 for the care, support and treatment of individuals that is licensed by
21 the State; a campsite, cabin, lean-to, or other similar residential
22 facility of a campground or an adult or youth camp; a furnished or
23 unfurnished private residential property, including but not limited to
24 condominiums, bungalows, single-family homes and similar living
25 units, where no maid service, room service, linen changing service
26 or other common hotel services are made available by the lessor and
27 where the keys to the furnished or unfurnished private residential
28 property, whether a physical key, access to a keyless locking
29 mechanism, or other means of physical ingress to the furnished or
30 unfurnished private residential property, are provided to the lessee
31 at the location of an offsite real estate broker licensed by the New
32 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or
33 leases of real property with a term of at least 90 consecutive days.

34 "Purchaser" means any person purchasing or hiring property or
35 services from another person, the receipts from which are taxable.

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

40 "Transient accommodation" means a room, group of rooms, or
41 other living or sleeping space for the lodging of occupants,
42 including but not limited to residences or buildings used as
43 residences, that is obtained through a transient space marketplace or
44 is a professionally managed unit. "Transient accommodation" does
45 not include: a hotel or hotel room; a room, group of rooms, or other
46 living or sleeping space used as a place of assembly; a dormitory or
47 other similar residential facility of an elementary or secondary
48 school or a college or university; a hospital, nursing home, or other

1 similar residential facility of a provider of services for the care,
2 support and treatment of individuals that is licensed by the State; a
3 campsite, cabin, lean-to, or other similar residential facility of a
4 campground or an adult or youth camp; a furnished or unfurnished
5 private residential property, including but not limited to
6 condominiums, bungalows, single-family homes and similar living
7 units, where no maid service, room service, linen changing service
8 or other common hotel services are made available by the lessor and
9 where the keys to the furnished or unfurnished private residential
10 property, whether a physical key, access to a keyless locking
11 mechanism, or other means of physical ingress to the furnished or
12 unfurnished private residential property, are provided to the lessee
13 at the location of an offsite real estate broker licensed by the New
14 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or
15 leases of real property with a term of at least 90 consecutive days.

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

23 (cf: P.L.2019, c.235, s.5)

24

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

27 1. As used in this act:

28 a. "Convention center operating authority" means, in the case
29 of any eligible municipality, the public authority or other
30 governmental entity empowered to operate convention hall and the
31 convention center facilities in the eligible municipality.

32 b. "Director" means the Director of the Division of Taxation in
33 the Department of the Treasury.

34 c. "Eligible municipality" means any municipality in which any
35 portion of the proceeds of a retail sales tax levied by ordinance
36 adopted by the municipality pursuant to section 1 of P.L.1947, c.71
37 (C.40:48-8.15) is applied as authorized by law to the payment of
38 costs of convention center facilities located in the municipality.

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

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

1 where the contracting for the accommodation is made through the
2 marketplace or travel agency.

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

7 g. "Professionally managed unit" means a room, group of
8 rooms, or other living or sleeping space for the lodging of
9 occupants in the State, that is offered for rent as a rental unit that
10 does not share any living or sleeping space with any other rental
11 unit, and that is directly or indirectly owned or controlled by a
12 person offering for rent two or more other units during the calendar
13 year, provided that the units are not: a hotel or hotel room; a room,
14 group of rooms, or other living or sleeping space used as a place of
15 assembly; a dormitory or other similar residential facility of an
16 elementary or secondary school or a college or university; a
17 hospital, nursing home, or other similar residential facility of a
18 provider of services for the care, support and treatment of
19 individuals that is licensed by the State; a campsite, cabin, lean-to,
20 or other similar residential facility of a campground or an adult or
21 youth camp; a furnished or unfurnished private residential property,
22 including but not limited to condominiums, bungalows, single-
23 family homes and similar living units, where no maid service, room
24 service, linen changing service or other common hotel services are
25 made available by the lessor and where the keys to the furnished or
26 unfurnished private residential property, whether a physical key,
27 access to a keyless locking mechanism, or other means of physical
28 ingress to the furnished or unfurnished private residential property,
29 are provided to the lessee at the location of an offsite real estate
30 broker licensed by the New Jersey Real Estate Commission
31 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
32 term of at least 90 consecutive days.

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

37 i. "Transient accommodation" means a room, group of rooms,
38 or other living or sleeping space for the lodging of occupants,
39 including but not limited to residences or buildings used as
40 residences, that is obtained through a transient space marketplace or
41 is a professionally managed unit. "Transient accommodation" does
42 not include: a hotel or hotel room; a room, group of rooms, or other
43 living or sleeping space used as a place of assembly; a dormitory or
44 other similar residential facility of an elementary or secondary
45 school or a college or university; a hospital, nursing home, or other
46 similar residential facility of a provider of services for the care,
47 support and treatment of individuals that is licensed by the State; a
48 campsite, cabin, lean-to, or other similar residential facility of a

1 campground or an adult or youth camp; a furnished or unfurnished
2 private residential property, including but not limited to
3 condominiums, bungalows, single-family homes and similar living
4 units, where no maid service, room service, linen changing service
5 or other common hotel services are made available by the lessor and
6 where the keys to the furnished or unfurnished private residential
7 property, whether a physical key, access to a keyless locking
8 mechanism, or other means of physical ingress to the furnished or
9 unfurnished private residential property, are provided to the lessee
10 at the location of an offsite real estate broker licensed by the New
11 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or
12 leases of real property with a term of at least 90 consecutive days.

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

20 (cf: P.L.2019, c.235, s.6)

21

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

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

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

35 "Professionally managed unit" means a room, group of rooms, or
36 other living or sleeping space for the lodging of occupants in the
37 State, that is offered for rent as a rental unit that does not share any
38 living or sleeping space with any other rental unit, and that is
39 directly or indirectly owned or controlled by a person offering for
40 rent two or more other units during the calendar year, provided that
41 the units are not: a hotel or hotel room; a room, group of rooms, or
42 other living or sleeping space used as a place of assembly; a
43 dormitory or other similar residential facility of an elementary or
44 secondary school or a college or university; a hospital, nursing
45 home, or other similar residential facility of a provider of services
46 for the care, support and treatment of individuals that is licensed by
47 the State; a campsite, cabin, lean-to, or other similar residential
48 facility of a campground or an adult or youth camp; a furnished or

1 unfurnished private residential property, including but not limited to
2 condominiums, bungalows, single-family homes and similar living
3 units, where no maid service, room service, linen changing service
4 or other common hotel services are made available by the lessor and
5 where the keys to the furnished or unfurnished private residential
6 property, whether a physical key, access to a keyless locking
7 mechanism, or other means of physical ingress to the furnished or
8 unfurnished private residential property, are provided to the lessee
9 at the location of an offsite real estate broker licensed by the New
10 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or
11 leases of real property with a term of at least 90 consecutive days.

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

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

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

47 (cf: P.L.2019, c.235, s.8)

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

3 3. As used in this act:

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

7 "Beach operation offset payment " means a payment made by an
8 authority to municipalities in its district for tourism development
9 activities related to operating and maintaining public beaches within
10 a zone to seaward of a line of demarcation located not more than
11 1,000 feet from the mean high water line.

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

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

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

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

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

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

44 "County" means a county of the sixth class.

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

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

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

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

14 "Predominantly tourism related retail receipts" means:

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

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

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

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

37 "Professionally managed unit" means a room, group of rooms, or
38 other living or sleeping space for the lodging of occupants in the
39 State, that is offered for rent as a rental unit that does not share any
40 living or sleeping space with any other rental unit, and that is
41 directly or indirectly owned or controlled by a person offering for
42 rent two or more other units during the calendar year, provided that
43 the units are not: a hotel or hotel room; a room, group of rooms, or
44 other living or sleeping space used as a place of assembly; a
45 dormitory or other similar residential facility of an elementary or
46 secondary school or a college or university; a hospital, nursing
47 home, or other similar residential facility of a provider of services
48 for the care, support and treatment of individuals that is licensed by

1 the State; a campsite, cabin, lean-to, or other similar residential
2 facility of a campground or an adult or youth camp; a furnished or
3 unfurnished private residential property, including but not limited to
4 condominiums, bungalows, single-family homes and similar living
5 units, where no maid service, room service, linen changing service
6 or other common hotel services are made available by the lessor and
7 where the keys to the furnished or unfurnished private residential
8 property, whether a physical key, access to a keyless locking
9 mechanism, or other means of physical ingress to the furnished or
10 unfurnished private residential property, are provided to the lessee
11 at the location of an offsite real estate broker licensed by the New
12 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or
13 leases of real property with a term of at least 90 consecutive days.

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

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

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

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

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

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

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

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

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

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

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

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

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

45 "Wildwood convention center facility" means the project
46 authorized by paragraph (12) of subsection a. of section 6 of
47 P.L.1971, c.137 (C.5:10-6).
48 (cf: P.L.2019, c.235, s.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (1) The term "seller" includes:

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

45 (B) A person maintaining a place of business in the State or
46 having an agent maintaining a place of business in the State and
47 making sales, whether at such place of business or elsewhere, to

1 persons within the State of tangible personal property, specified
2 digital products or services, the use of which is taxed by this act;

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

9 A person making sales of tangible personal property, specified
10 digital products, or services taxable under the "Sales and Use Tax
11 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be
12 soliciting business through an independent contractor or other
13 representative if the person making sales enters into an agreement
14 with an independent contractor having physical presence in this
15 State or other representative having physical presence in this State,
16 for a commission or other consideration, under which the
17 independent contractor or representative directly or indirectly refers
18 potential customers, whether by a link on an internet website or
19 otherwise, and the cumulative gross receipts from sales to
20 customers in this State who were referred by all independent
21 contractors or representatives that have this type of an agreement
22 with the person making sales are in excess of \$10,000 during the
23 preceding four quarterly periods ending on the last day of March,
24 June, September, and December. This presumption may be rebutted
25 by proof that the independent contractor or representative with
26 whom the person making sales has an agreement did not engage in
27 any solicitation in the State on behalf of the person that would
28 satisfy the nexus requirements of the United States Constitution
29 during the four quarterly periods in question. Nothing in this
30 subparagraph shall be construed to narrow the scope of the terms
31 independent contractor or other representative for purposes of any
32 other provision of the "Sales and Use Tax Act," P.L.1966, c.30
33 (C.54:32B-1 et seq.);

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

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

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

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

47 (H) A person engaged in collecting charges in the nature of
48 initiation fees, membership fees or dues for access to or use of the

1 property or facilities of a health and fitness, athletic, sporting or
2 shopping club or organization;

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

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

9 (K) A marketplace facilitator.

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

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

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

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

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

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

- 1 (E) The municipal transient accommodation registration number,
2 if applicable;
- 3 (F) A statement as to whether such booking services will be
4 provided in connection with (i) short-term rental of the entirety of
5 such unit, (ii) short-term rental of part of such unit, but not the
6 entirety of such unit, and/or (iii) short-term rental of the entirety of
7 such unit, or part thereof, in which a non-short-term occupant will
8 continue to occupy such unit for the duration of such short-term
9 rental;
- 10 (G) The individualized name or number of each such
11 advertisement or listing connected to such unit and the uniform
12 resource locator (URL) for each such listing or advertisement,
13 where applicable; and
- 14 (H) Such other information as the Division of Taxation may by
15 rule require.
- 16 The Division of Taxation may audit transient space marketplaces
17 as necessary to ensure data accuracy and enforce tax compliance.
- 18 (j) "Hotel" means a building or portion of a building which is
19 regularly used and kept open as such for the lodging of guests.
20 "Hotel" includes an apartment hotel, a motel, inn, and rooming or
21 boarding house or club, whether or not meals are served, but does
22 not include a transient accommodation.
- 23 (k) "Occupancy" means the use or possession or the right to the
24 use or possession, of any room in a hotel or transient
25 accommodation.
- 26 (l) "Occupant" means a person who, for a consideration, uses,
27 possesses, or has the right to use or possess, any room in a hotel or
28 transient accommodation under any lease, concession, permit, right
29 of access, license to use or other agreement, or otherwise.
- 30 (m) "Permanent resident" means any occupant of any room or
31 rooms in a hotel or transient accommodation for at least 90
32 consecutive days shall be considered a permanent resident with
33 regard to the period of such occupancy.
- 34 (n) "Room" means any room or rooms of any kind in any part or
35 portion of a hotel or transient accommodation, which is available
36 for or let out for any purpose other than a place of assembly.
- 37 (o) "Admission charge" means the amount paid for admission,
38 including any service charge and any charge for entertainment or
39 amusement or for the use of facilities therefor.
- 40 (p) "Amusement charge" means any admission charge, dues or
41 charge of a roof garden, cabaret or other similar place.
- 42 (q) "Charge of a roof garden, cabaret or other similar place"
43 means any charge made for admission, refreshment, service, or
44 merchandise at a roof garden, cabaret or other similar place.
- 45 (r) "Dramatic or musical arts admission charge" means any
46 admission charge paid for admission to a theater, opera house,
47 concert hall or other hall or place of assembly for a live, dramatic,
48 choreographic or musical performance.

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

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

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

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

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

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

42 (y) "Property and services the use of which is subject to tax"
43 includes: (1) all property sold to a person within the State, whether
44 or not the sale is made within the State, the use of which property is
45 subject to tax under section 6 or will become subject to tax when
46 such property is received by or comes into the possession or control
47 of such person within the State; (2) all services rendered to a person
48 within the State, whether or not such services are performed within

1 the State, upon tangible personal property or a specified digital
2 product the use of which is subject to tax under section 6 or will
3 become subject to tax when such property or product is distributed
4 within the State or is received by or comes into possession or
5 control of such person within the State; (3) intrastate, interstate, or
6 international telecommunications sourced to this State pursuant to
7 section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by
8 amendment, P.L.1995, c.184); (5) energy sold, exchanged or
9 delivered in this State for use in this State; (6) utility service sold,
10 exchanged or delivered in this State for use in this State; (7) mail
11 processing services in connection with printed advertising material
12 distributed in this State; (8) (Deleted by amendment, P.L.2005,
13 c.126); and (9) services the benefit of which are received in this
14 State.

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

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

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

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

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

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

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

45 (3) The definition of "lease or rental" provided in this subsection
46 shall be used for the purposes of this act regardless of whether a
47 transaction is characterized as a lease or rental under generally

1 accepted accounting principles, the federal Internal Revenue Code
2 or other provisions of federal, state or local law.

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

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

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

15 "Telecommunications service" shall not include:

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

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

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

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

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

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

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

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

29 (9) tangible personal property;

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

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

33 (12) internet access service;

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

42 (14) ancillary services; or

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

45 For the purposes of this subsection:

46 "ancillary service" means a service that is associated with or
47 incidental to the provision of telecommunications services,
48 including but not limited to detailed telecommunications billing,

1 directory assistance, vertical service, and voice mail service;
2 "conference bridging service" means an ancillary service that links
3 two or more participants of an audio or video conference call and
4 may include the provision of a telephone number. Conference
5 bridging service does not include the telecommunications services
6 used to reach the conference bridge;

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

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

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

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

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

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

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

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

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

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

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

43 (ii) "Self-generation unit" means a facility located on the user's
44 property, or on property purchased or leased from the user by the
45 person owning the self-generation unit and such property is
46 contiguous to the user's property, which generates electricity to be
47 used only by that user on the user's property and is not transported
48 to the user over wires that cross a property line or public

1 thoroughfare unless the property line or public thoroughfare merely
2 bifurcates the user's or self-generation unit owner's otherwise
3 contiguous property.

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

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

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

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

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

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

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

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

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

36 (D) Delivery charges;

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

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

39 (2) "Sales price" does not include:

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

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

- 1 (C) Any taxes legally imposed directly on the consumer that are
2 separately stated on the invoice, bill of sale, or similar document
3 given to the purchaser;
- 4 (D) The amount of sales price for which food stamps have been
5 properly tendered in full or part payment pursuant to the federal
6 Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or
- 7 (E) Credit for any trade-in of property of the same kind accepted
8 in part payment and intended for resale if the amount is separately
9 stated on the invoice, bill of sale, or similar document given to the
10 purchaser.
- 11 (3) "Sales price" includes consideration received by the seller
12 from third parties if:
- 13 (A) The seller actually receives consideration from a party other
14 than the purchaser and the consideration is directly related to a price
15 reduction or discount on the sale;
- 16 (B) The seller has an obligation to pass the price reduction or
17 discount through to the purchaser;
- 18 (C) The amount of the consideration attributable to the sale is
19 fixed and determinable by the seller at the time of the sale of the
20 item to the purchaser; and
- 21 (D) One of the following criteria is met:
- 22 (i) the purchaser presents a coupon, certificate, or other
23 documentation to the seller to claim a price reduction or discount
24 where the coupon, certificate, or documentation is authorized,
25 distributed, or granted by a third party with the understanding that
26 the third party will reimburse any seller to whom the coupon,
27 certificate, or documentation is presented;
- 28 (ii) the purchaser identifies himself to the seller as a member of
29 a group or organization entitled to a price reduction or discount;
30 provided however, that a preferred customer card that is available to
31 any patron does not constitute membership in such a group; or
- 32 (iii) the price reduction or discount is identified as a third party
33 price reduction or discount on the invoice received by the purchaser
34 or on a coupon, certificate, or other documentation presented by the
35 purchaser.
- 36 (4) In the case of a bundled transaction that includes a
37 telecommunications service, an ancillary service, internet access, or
38 an audio or video programming service, if the price is attributable to
39 products that are taxable and products that are nontaxable, the
40 portion of the price attributable to the nontaxable products is
41 subject to tax unless the provider can identify by reasonable and
42 verifiable standards such portion from its books and records that are
43 kept in the regular course of business for other purposes, including
44 non-tax purposes.
- 45 (pp) "Purchase price" means the measure subject to use tax and
46 has the same meaning as "sales price."

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

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

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

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

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

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

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

40 (xx) "Investigation and security services" means:

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

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

46 (3) armored car services; and

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

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

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

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

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

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

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

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

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

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

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

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

11 (iii) "Professionally managed unit" means a room, group of
12 rooms, or other living or sleeping space for the lodging of
13 occupants in the State, that is offered for rent as a rental unit that
14 does not share any living or sleeping space with any other rental
15 unit, and that is directly or indirectly owned or controlled by a
16 person offering for rent two or more other units during the calendar
17 year, provided that, the units are not: a hotel or hotel room; a room,
18 group of rooms, or other living or sleeping space used as a place of
19 assembly; a dormitory or other similar residential facility of an
20 elementary or secondary school or a college or university; a
21 hospital, nursing home, or other similar residential facility of a
22 provider of services for the care, support and treatment of
23 individuals that is licensed by the State; a campsite, cabin, lean-to,
24 or other similar residential facility of a campground or an adult or
25 youth camp; a furnished or unfurnished private residential property,
26 including but not limited to condominiums, bungalows, single-
27 family homes and similar living units, where no maid service, room
28 service, linen changing service or other common hotel services are
29 made available by the lessor and where the keys to the furnished or
30 unfurnished private residential property, whether a physical key,
31 access to a keyless locking mechanism, or other means of physical
32 ingress to the furnished or unfurnished private residential property,
33 are provided to the lessee at the location of an offsite real estate
34 broker licensed by the New Jersey Real Estate Commission
35 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
36 term of at least 90 consecutive days.

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

43 (cf: P.L.2019, c.235, s.13)

44
45 8. This act shall take effect immediately.

STATEMENT

This bill clarifies what type of short term rentals are considered professionally managed.

The taxes imposed on transient accommodations apply to those transient accommodations that are obtained through a marketplace, and to those transient accommodations that are professionally managed.

A professionally managed unit is a rental unit that is owned by a person offering for rent two or more other units during the calendar year. This bill clarifies that the following types of rental units will not count towards the “two or more other units” total:

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; or

leases of real property with a term of at least 90 consecutive days.