

LEGISLATIVE FISCAL ESTIMATE
[Second Reprint]
SENATE, No. 2412
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: AUGUST 5, 2020

SUMMARY

Synopsis: Requires refund or credit for transient and short-term rental reservation when public health emergency or state of emergency is in effect.

Type of Impact: Temporary State revenue loss to the General Fund; temporary revenue loss to two local governments

Agencies Affected: Department of the Treasury; Local Governments.

Office of Legislative Services Estimate

Fiscal Impact	<u>Through September 30, 2020</u>
State Revenue Decrease	Indeterminate
Local Revenue Decrease	Indeterminate

- The Office of Legislative Services (OLS) expects the bill to result in a temporary, indeterminate decrease in State and local revenues for two municipalities. Any State and local revenue losses will be limited because the bill’s provisions apply only to uses of transient accommodations or private short-term rental accommodations that occurred or commenced within a defined period of time.
- The bill’s provisions apply to any reservation or booking if the timeframe of the use of the transient accommodation or private short-term rental housing accommodation: (1) occurred between March 9, 2020 and September 30, 2020; (2) commenced before March 9, 2020 and concluded on or after March 9, 2020; or (3) commenced on or before September 30, 2020 and concluded after September 30, 2020. The bill provides that a refund or credit shall not be provided to any transaction executed after July 1, 2020 for the reservation or booking of a transient accommodation.
- To the extent that customers are provided with a credit or refund for a reservation or booking of a transient accommodation or short-term rental housing accommodation, the State will experience a loss of hotel occupancy fee revenues and sales and use tax revenues because any taxes paid will be included in the refund. Similarly, municipalities would incur a loss of hotel and motel occupancy tax revenues.

BILL DESCRIPTION

This bill requires a transient space marketplace, owner of a private short-term rental accommodation, real estate broker or agent, and any other person that collects payments from a guest to provide a refund or credit for a reservation or booking for a transient accommodation or private short-term rental housing accommodation in the State that would occur during a public health emergency or a state of emergency, or both, declared by the Governor and in effect, or when a travel restriction is in place. The transient space marketplace, owner of a private short-term rental housing accommodation, real estate broker or agent, and any other person that collects payments from a guest must provide the refund or credit to the guest for the use of the transient accommodation or for the use of the private-short term rental housing accommodation under these emergency conditions, notwithstanding any policy of the transient space marketplace or private short-term rental housing accommodation requiring payment in full in advance, or not allowing any refunds, or any other policy to the contrary.

The transient space marketplace, owner of a transient accommodation or private short-term rental housing accommodation, real estate broker or agent, and any other person that receives payments from a guest would refund, or provide as a credit for future use, their respective share of payments received from a short-term rental transaction. An owner of a transient accommodation or a private short-term rental housing accommodation must refund, or provide as a credit for future use, any payments from a guest that are received by the owner, but which were first collected by a transient space marketplace, real estate broker or agent, or any other person that collects payments from a guest prior to transmittal to the owner.

The bill's provisions apply to any reservation or booking if the timeframe of the use of the transient accommodation or private short-term rental housing accommodation: (1) occurred between March 9, 2020 and September 30, 2020; (2) commenced before March 9, 2020 and concluded on or after March 9, 2020; or (3) commenced on or before September 30, 2020 and concluded after September 30, 2020. The bill provides that a refund or credit shall not be provided to any transaction executed after July 1, 2020 for the reservation or booking of a transient accommodation.

With respect to any transaction made by a guest for a reservation or booking, pursuant to the bill, where such transaction was executed on or after March 9, 2020, the guest must provide a cancellation notice to the relevant entity no less than 30 days prior to the date of the reservation or booking to receive a refund, or credit, in full pursuant to the provisions of the bill.

The bill also provides that a guest who, notwithstanding the public health emergency, state of emergency, or travel restriction, utilized the transient accommodation or private short-term rental housing accommodation would not be eligible for a refund or credit.

The bill is retroactive to March 9, 2020 and expires on October 1, 2020.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill may result in a temporary, indeterminate decrease in State revenues deposited in the General Fund and local hotel occupancy taxes and fees. The bill requires

a transient space marketplace or the owner of a private short-term rental accommodation to provide a refund or credit for future use under certain circumstances. The total amount of State and local revenue losses will be driven by the total amount of refunds paid.

To the extent that refunds are provided, the State will experience a limited decrease in State sales and use tax revenues and State hotel and motel occupancy fee revenues because any taxes or fees paid will be refunded to the customer. The temporal limitations on the applicability of the bill's provisions and its October 1, 2020 expiration date will also lessen any State and local revenue losses resulting from the bill.

Current law allows certain municipalities to impose various taxes and fees for the occupancy of a hotel room. Information available through the Division of Taxation, most recently updated on June 22, 2020, indicates that two municipalities have extended the hotel occupancy tax to hotel-like transient accommodations and so will likely experience a limited decrease in local hotel taxes and fees.

Section: Revenue, Finance, and Appropriations
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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).