

SENATE, No. 505

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

SYNOPSIS

Modifies certain definitions related to transient accommodation taxes and fees.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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
8 read 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]** accepted through a
25 means provided by the marketplace or travel agency, **[either**
26 **directly or indirectly, regardless of which person or entity receives**
27 **the payment, and where the contracting for the accommodation is**
28 **made through the marketplace or travel agency]** regardless of
29 whether payment for the accommodation is made through a means
30 provided by the marketplace or travel agency.

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

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

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

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.

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

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

29 "Transient space marketplace" means a marketplace or travel
30 agency **【through which a person may】** that, in exchange for a fee,
31 allows a person to offer transient accommodations to customers and
32 through which customers may arrange for occupancies of transient
33 accommodations. "Transient space marketplace" does not include a
34 marketplace or travel agency that exclusively offers transient
35 accommodations in the State owned by the owner of the
36 marketplace or travel agency.

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

38

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

41 3. As used in this act:

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

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

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

4 "Eligible municipality" means a municipality: (1) in which is
5 located part of an urban enterprise zone that has been designated
6 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any
7 supplement thereto; and (2) which has a population greater than
8 25,000 and less than 29,000 according to the latest federal decennial
9 census in a county of the third class with a population density
10 greater than 295 and less than 304 persons per square mile
11 according to the latest federal decennial census.

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

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

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

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

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

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1 municipality to a project as authorized pursuant to section 5 of
2 P.L.2007, c.30 (C.34:1B-194).

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

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

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

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

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

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

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

3 2. As used in this act:

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

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

8 (2) Any cover charge, minimum charge, entertainment, or other
9 similar charge made to any patron of any restaurant, cafe, bar, hotel
10 or other similar establishment;

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

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

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

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

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

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

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

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

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

1 living or sleeping space used as a place of assembly; a dormitory or
2 other similar residential facility of an elementary or secondary
3 school or a college or university; a hospital, nursing home, or other
4 similar residential facility of a provider of services for the care,
5 support and treatment of individuals that is licensed by the State; a
6 campsite, cabin, lean-to, or other similar residential facility of a
7 campground or an adult or youth camp; a furnished or unfurnished
8 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 "Transient space marketplace" means a marketplace or travel
20 agency **【through which a person may】** that, in exchange for a fee,
21 allows a person to offer transient accommodations to customers and
22 through which customers may arrange for occupancies of transient
23 accommodations. "Transient space marketplace" does not include a
24 marketplace or travel agency that exclusively offers transient
25 accommodations in the State owned by the owner of the
26 marketplace or travel agency.

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

28

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

31 1. As used in this act:

32 a. "Convention center operating authority" means, in the case
33 of any eligible municipality, the public authority or other
34 governmental entity empowered to operate convention hall and the
35 convention center facilities in the eligible municipality.

36 b. "Director" means the Director of the Division of Taxation in
37 the Department of the Treasury.

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

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

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

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

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

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

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

1 j. "Transient space marketplace" means a marketplace or travel
2 agency **【through which a person may】** that, in exchange for a fee,
3 allows a person to offer transient accommodations to customers and
4 through which customers may arrange for occupancies of transient
5 accommodations. "Transient space marketplace" does not include a
6 marketplace or travel agency that exclusively offers transient
7 accommodations in the State owned by the owner of the
8 marketplace or travel agency.

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

10
11 5. Section 2 of P.L.1981, c.77 (C.40:48E-2) is amended to read
12 as follows:

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

18 "Obtained through a transient space marketplace" means **【that**
19 **payment for】** the accommodation is **【made】** accepted through a
20 means provided by the marketplace or travel agency, **【either**
21 **directly or indirectly, regardless of which person or entity receives**
22 **the payment, and where the contracting for the accommodation is**
23 **made through the marketplace or travel agency】** regardless of
24 whether payment for the accommodation is made through a means
25 provided by the marketplace or travel agency.

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

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 "Transient accommodation" means a room, group of rooms, or
37 other living or sleeping space for the lodging of occupants,
38 including but not limited to residences or buildings used as
39 residences, that is obtained through a transient space marketplace or
40 is a professionally managed unit. "Transient accommodation" does
41 not include: a hotel or hotel room; a room, group of rooms, or other
42 living or sleeping space used as a place of assembly; a dormitory or
43 other similar residential facility of an elementary or secondary
44 school or a college or university; a hospital, nursing home, or other
45 similar residential facility of a provider of services for the care,
46 support and treatment of individuals that is licensed by the State; a
47 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 "Transient space marketplace" means a marketplace or travel
14 agency **【through which a person may】** that, in exchange for a fee,
15 allows a person to offer transient accommodations to customers and
16 through which customers may arrange for occupancies of transient
17 accommodations. "Transient space marketplace" does not include a
18 marketplace or travel agency that exclusively offers transient
19 accommodations in the State owned by the owner of the
20 marketplace or travel agency.

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

22

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

25 3. As used in this act:

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

29 "Beach operation offset payment " means a payment made by an
30 authority to municipalities in its district for tourism development
31 activities related to operating and maintaining public beaches within
32 a zone to seaward of a line of demarcation located not more than
33 1,000 feet from the mean high water line.

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

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

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

43 "Convention center facility" means any convention hall or center
44 or like structure or building, and shall include all facilities,
45 including commercial, office, community service, parking facilities
46 and all property rights, easements and interests, and other facilities
47 constructed for the accommodation and entertainment of tourists

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1 and visitors, constructed in conjunction with a convention center
2 facility and forming reasonable appurtenances thereto but does not
3 mean the Wildwood convention center facility as defined in this
4 section.

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

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

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

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

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

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

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

37 "Predominantly tourism related retail receipts" means:

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

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

1 from sales of food and beverages sold through coin operated
2 vending machines; and

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

7 "Obtained through a transient space marketplace" means [that
8 payment for] the accommodation is [made] accepted through a
9 means provided by the marketplace or travel agency, [either
10 directly or indirectly, regardless of which person or entity receives
11 the payment, and where the contracting for the accommodation is
12 made through the marketplace or travel agency] regardless of
13 whether payment for the accommodation is made through a means
14 provided by the marketplace or travel agency.

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

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

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

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

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

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

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

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

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

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

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

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

43 "Transient space marketplace" means a marketplace or travel
44 agency **【through which a person may】** that, in exchange for a fee,
45 allows a person to offer transient accommodations to customers and
46 through which customers may arrange for occupancies of transient
47 accommodations. "Transient space marketplace" does not include a

1 marketplace or travel agency that exclusively offers transient
2 accommodations in the State owned by the owner of the
3 marketplace or travel agency.

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

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

10 (cf: P.L.2019, c.235, s.11)

11

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

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

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

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

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

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

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

30 (1) For the purposes of this act a sale is for "resale, sublease, or
31 subrent" if it is a sale (A) for resale either as such or as converted
32 into or as a component part of a product produced for sale by the
33 purchaser, including the conversion of natural gas into another
34 intermediate or end product, other than electricity or thermal
35 energy, produced for sale by the purchaser, (B) for use by that
36 person in performing the services subject to tax under subsection
37 (b) of section 3 where the property so sold becomes a physical
38 component part of the property upon which the services are
39 performed or where the property so sold is later actually transferred
40 to the purchaser of the service in conjunction with the performance
41 of the service subject to tax, (C) of telecommunications service to a
42 telecommunications service provider for use as a component part of
43 telecommunications service provided to an ultimate customer, or
44 (D) to a person who receives by contract a product transferred
45 electronically for further commercial broadcast, rebroadcast,
46 transmission, retransmission, licensing, relicensing, distribution,
47 redistribution or exhibition of the product, in whole or in part, to

1 another person, other than rights to redistribute based on statutory
2 or common law doctrine such as fair use.

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

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

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

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

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

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

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

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

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

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

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

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

40 (h) "Use" means the exercise of any right or power over tangible
41 personal property, specified digital products, services to property or
42 products, or services by the purchaser thereof and includes, but is
43 not limited to, the receiving, storage or any keeping or retention for
44 any length of time, withdrawal from storage, any distribution, any
45 installation, any affixation to real or personal property, or any
46 consumption of such property or products. Use also includes the
47 exercise of any right or power over intrastate or interstate

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1 telecommunications and prepaid calling services. Use also includes
2 the exercise of any right or power over utility service. Use also
3 includes the derivation of a direct or indirect benefit from a service.

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

6 (1) The term "seller" includes:

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

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

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

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

46 (D) Any other person making sales to persons within the State of
47 tangible personal property, specified digital products or services,

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1 the use of which is taxed by this act, who may be authorized by the
2 director to collect the tax imposed by this act;

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

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

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

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

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

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

22 (K) A marketplace facilitator.

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

44 (3) Notwithstanding any other provision of law or
45 administrative action to the contrary, transient space marketplaces
46 shall be required to collect and pay on behalf of persons engaged in
47 the business of providing transient accommodations located in this

1 State the tax for transactions obtained through the transient space
2 marketplace. For not less than four years following the end of the
3 calendar year in which the transaction occurred, the transient space
4 marketplace shall maintain the following data for those transactions
5 consummated through the transient space marketplace:

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

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

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

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

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

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

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

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

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

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

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

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

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

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- 1 (n) "Room" means any room or rooms of any kind in any part or
2 portion of a hotel or transient accommodation, which is available
3 for or let out for any purpose other than a place of assembly.
- 4 (o) "Admission charge" means the amount paid for admission,
5 including any service charge and any charge for entertainment or
6 amusement or for the use of facilities therefor.
- 7 (p) "Amusement charge" means any admission charge, dues or
8 charge of a roof garden, cabaret or other similar place.
- 9 (q) "Charge of a roof garden, cabaret or other similar place"
10 means any charge made for admission, refreshment, service, or
11 merchandise at a roof garden, cabaret or other similar place.
- 12 (r) "Dramatic or musical arts admission charge" means any
13 admission charge paid for admission to a theater, opera house,
14 concert hall or other hall or place of assembly for a live, dramatic,
15 choreographic or musical performance.
- 16 (s) "Lessor" means any person who is the owner, licensee, or
17 lessee of any premises, tangible personal property or a specified
18 digital product which the person leases, subleases, or grants a
19 license to use to other persons.
- 20 (t) "Place of amusement" means any place where any facilities
21 for entertainment, amusement, or sports are provided.
- 22 (u) "Casual sale" means an isolated or occasional sale of an item
23 of tangible personal property or a specified digital product by a
24 person who is not regularly engaged in the business of making retail
25 sales of such property or product where the item of tangible
26 personal property or the specified digital product was obtained by
27 the person making the sale, through purchase or otherwise, for the
28 person's own use.
- 29 (v) "Motor vehicle" includes all vehicles propelled otherwise
30 than by muscular power (excepting such vehicles as run only upon
31 rails or tracks), trailers, semitrailers, house trailers, or any other
32 type of vehicle drawn by a motor-driven vehicle, and motorcycles,
33 designed for operation on the public highways.
- 34 (w) "Persons required to collect tax" or "persons required to
35 collect any tax imposed by this act" includes: every seller of
36 tangible personal property, specified digital products or services;
37 every recipient of amusement charges; every operator of a hotel or
38 transient accommodation; every transient space marketplace; every
39 marketplace facilitator; every seller of a telecommunications
40 service; every recipient of initiation fees, membership fees or dues
41 for access to or use of the property or facilities of a health and
42 fitness, athletic, sporting or shopping club or organization; and
43 every recipient of charges for parking, storing or garaging a motor
44 vehicle. Said terms shall also include any officer or employee of a
45 corporation or of a dissolved corporation who as such officer or
46 employee is under a duty to act for such corporation in complying
47 with any requirement of this act and any member of a partnership.

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

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

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

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

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

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

45 (B) A transfer of possession or control of property under an
46 agreement that requires the transfer of title upon completion of

1 required payments and payment of an option price does not exceed
2 the greater of \$100 or one percent of the total required payments; or

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

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

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

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

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

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

32 "Telecommunications service" shall not include:

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

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

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

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

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

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

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

- 1 (8) installation or maintenance of wiring or equipment on a
2 customer's premises;
- 3 (9) tangible personal property;
- 4 (10) advertising, including but not limited to directory
5 advertising;
- 6 (11) billing and collection services provided to third parties;
- 7 (12) internet access service;
- 8 (13) radio and television audio and video programming services,
9 regardless of the medium, including the furnishing of transmission,
10 conveyance, and routing of such services by the programming
11 service provider. Radio and television audio and video
12 programming services shall include but not be limited to cable
13 service as defined in section 47 U.S.C. s.522(6) and audio and video
14 programming services delivered by commercial mobile radio
15 service providers, as defined in section 47 C.F.R. 20.3;
- 16 (14) ancillary services; or
- 17 (15) digital products delivered electronically, including but not
18 limited to software, music, video, reading materials, or ringtones.
- 19 For the purposes of this subsection:
- 20 "ancillary service" means a service that is associated with or
21 incidental to the provision of telecommunications services,
22 including but not limited to detailed telecommunications billing,
23 directory assistance, vertical service, and voice mail service;
- 24 "conference bridging service" means an ancillary service that links
25 two or more participants of an audio or video conference call and
26 may include the provision of a telephone number. Conference
27 bridging service does not include the telecommunications services
28 used to reach the conference bridge;
- 29 "detailed telecommunications billing service" means an ancillary
30 service of separately stating information pertaining to individual
31 calls on a customer's billing statement;
- 32 "directory assistance" means an ancillary service of providing
33 telephone number information or address information or both;
- 34 "vertical service" means an ancillary service that is offered in
35 connection with one or more telecommunications services, which
36 offers advanced calling features that allow customers to identify
37 callers and to manage multiple calls and call connections, including
38 conference bridging services; and
- 39 "voice mail service" means an ancillary service that enables the
40 customer to store, send, or receive recorded messages. Voice mail
41 service does not include any vertical service that a customer may be
42 required to have to utilize the voice mail service.
- 43 (dd) (1) "Intrastate telecommunications" means a
44 telecommunications service that originates in one United States
45 state or a United States territory or possession or federal district,
46 and terminates in the same United States state or United States
47 territory or possession or federal district.

- 1 (2) "Interstate telecommunications" means a
2 telecommunications service that originates in one United States
3 state or a United States territory or possession or federal district,
4 and terminates in a different United States state or United States
5 territory or possession or federal district.
- 6 (3) "International telecommunications" means a
7 telecommunications service that originates or terminates in the
8 United States and terminates or originates outside the United States,
9 respectively. "United States" includes the District of Columbia or a
10 United States territory or possession.
- 11 (ee) (Deleted by amendment, P.L.2008, c.123)
- 12 (ff) "Natural gas" means any gaseous fuel distributed through a
13 pipeline system.
- 14 (gg) "Energy" means natural gas or electricity.
- 15 (hh) "Utility service" means the transportation or transmission of
16 natural gas or electricity by means of mains, wires, lines or pipes, to
17 users or customers.
- 18 (ii) "Self-generation unit" means a facility located on the user's
19 property, or on property purchased or leased from the user by the
20 person owning the self-generation unit and such property is
21 contiguous to the user's property, which generates electricity to be
22 used only by that user on the user's property and is not transported
23 to the user over wires that cross a property line or public
24 thoroughfare unless the property line or public thoroughfare merely
25 bifurcates the user's or self-generation unit owner's otherwise
26 contiguous property.
- 27 (jj) "Co-generation facility" means a facility the primary
28 purpose of which is the sequential production of electricity and
29 steam or other forms of useful energy which are used for industrial
30 or commercial heating or cooling purposes and which is designated
31 by the Federal Energy Regulatory Commission, or its successor, as
32 a "qualifying facility" pursuant to the provisions of the "Public
33 Utility Regulatory Policies Act of 1978," Pub.L.95-617.
- 34 (kk) "Non-utility" means a company engaged in the sale,
35 exchange or transfer of natural gas that was not subject to the
36 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to
37 December 31, 1997.
- 38 (ll) "Pre-paid calling service" means the right to access
39 exclusively telecommunications services, which shall be paid for in
40 advance and which enables the origination of calls using an access
41 number or authorization code, whether manually or electronically
42 dialed, and that is sold in predetermined units or dollars of which
43 the number declines with use in a known amount.
- 44 (mm) "Mobile telecommunications service" means the same as
45 that term is defined in the federal "Mobile Telecommunications
46 Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).
- 47 (nn) (Deleted by amendment, P.L.2008, c.123)

- 1 (oo) (1) "Sales price" is the measure subject to sales tax and
2 means the total amount of consideration, including cash, credit,
3 property, and services, for which personal property or services are
4 sold, leased, or rented, valued in money, whether received in money
5 or otherwise, without any deduction for the following:
- 6 (A) The seller's cost of the property sold;
 - 7 (B) The cost of materials used, labor or service cost, interest,
8 losses, all costs of transportation to the seller, all taxes imposed on
9 the seller, and any other expense of the seller;
 - 10 (C) Charges by the seller for any services necessary to complete
11 the sale;
 - 12 (D) Delivery charges;
 - 13 (E) (Deleted by amendment, P.L.2011, c.49); and
 - 14 (F) (Deleted by amendment, P.L.2008, c.123).
- 15 (2) "Sales price" does not include:
- 16 (A) Discounts, including cash, term, or coupons that are not
17 reimbursed by a third party, that are allowed by a seller and taken
18 by a purchaser on a sale;
 - 19 (B) Interest, financing, and carrying charges from credit
20 extended on the sale of personal property or services, if the amount
21 is separately stated on the invoice, bill of sale, or similar document
22 given to the purchaser;
 - 23 (C) Any taxes legally imposed directly on the consumer that are
24 separately stated on the invoice, bill of sale, or similar document
25 given to the purchaser;
 - 26 (D) The amount of sales price for which food stamps have been
27 properly tendered in full or part payment pursuant to the federal
28 Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or
 - 29 (E) Credit for any trade-in of property of the same kind accepted
30 in part payment and intended for resale if the amount is separately
31 stated on the invoice, bill of sale, or similar document given to the
32 purchaser.
- 33 (3) "Sales price" includes consideration received by the seller
34 from third parties if:
- 35 (A) The seller actually receives consideration from a party other
36 than the purchaser and the consideration is directly related to a price
37 reduction or discount on the sale;
 - 38 (B) The seller has an obligation to pass the price reduction or
39 discount through to the purchaser;
 - 40 (C) The amount of the consideration attributable to the sale is
41 fixed and determinable by the seller at the time of the sale of the
42 item to the purchaser; and
 - 43 (D) One of the following criteria is met:
 - 44 (i) the purchaser presents a coupon, certificate, or other
45 documentation to the seller to claim a price reduction or discount
46 where the coupon, certificate, or documentation is authorized,
47 distributed, or granted by a third party with the understanding that

1 the third party will reimburse any seller to whom the coupon,
2 certificate, or documentation is presented;

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

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

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

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

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

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

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

- 1 (tt) "Streamlined Sales and Use Tax Agreement" means the
2 agreement entered into as governed and authorized by the "Uniform
3 Sales and Use Tax Administration Act," P.L.2001, c.431
4 (C.54:32B-44 et seq.).
- 5 (uu) "Alcoholic beverages" means beverages that are suitable for
6 human consumption and contain one-half of one percent or more of
7 alcohol by volume.
- 8 (vv) (Deleted by amendment, P.L.2011, c.49)
- 9 (ww) "Landscaping services" means services that result in a
10 capital improvement to land other than structures of any kind
11 whatsoever, such as: seeding, sodding or grass plugging of new
12 lawns; planting trees, shrubs, hedges, plants; and clearing and
13 filling land.
- 14 (xx) "Investigation and security services" means:
- 15 (1) investigation and detective services, including detective
16 agencies and private investigators, and fingerprint, polygraph,
17 missing person tracing and skip tracing services;
- 18 (2) security guard and patrol services, including bodyguard and
19 personal protection, guard dog, guard, patrol, and security services;
- 20 (3) armored car services; and
- 21 (4) security systems services, including security, burglar, and
22 fire alarm installation, repair or monitoring services.
- 23 (yy) "Information services" means the furnishing of information
24 of any kind, which has been collected, compiled, or analyzed by the
25 seller, and provided through any means or method, other than
26 personal or individual information which is not incorporated into
27 reports furnished to other people.
- 28 (zz) "Specified digital product" means an electronically
29 transferred digital audio-visual work, digital audio work, or digital
30 book; provided however, that a digital code which provides a
31 purchaser with a right to obtain the product shall be treated in the
32 same manner as a specified digital product.
- 33 (aaa) "Digital audio-visual work" means a series of related
34 images which, when shown in succession, impart an impression of
35 motion, together with accompanying sounds, if any.
- 36 (bbb) "Digital audio work" means a work that results from the
37 fixation of a series of musical, spoken, or other sounds, including a
38 ringtone.
- 39 (ccc) "Digital book" means a work that is generally recognized
40 in the ordinary and usual sense as a book.
- 41 (ddd) "Transferred electronically" means obtained by the
42 purchaser by means other than tangible storage media.
- 43 (eee) "Ringtone" means a digitized sound file that is
44 downloaded onto a device and that may be used to alert the
45 purchaser with respect to a communication.
- 46 (fff) "Residence" means a house, condominium, or other
47 residential dwelling unit in a building or structure or part of a

1 building or structure that is designed, constructed, leased, rented, let
2 or hired out, or otherwise made available for use as a residence.

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

27 (hhh) "Transient space marketplace" means a marketplace or
28 travel agency **【through which a person may】** that, in exchange for a
29 fee, allows a person to offer transient accommodations to customers
30 and through which customers may arrange for occupancies of
31 transient accommodations. "Transient space marketplace" does not
32 include a marketplace or travel agency that exclusively offers
33 transient accommodations in the State owned by the owner of the
34 marketplace or travel agency.

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

42 (jjj) "Obtained through a transient space marketplace" means
43 **【that payment for】** the accommodation is **【made】** accepted through
44 a means provided by the marketplace or travel agency, **【either**
45 **directly or indirectly, regardless of which person or entity receives**
46 **the payment, and where the contracting for the accommodation is**
47 **made through the marketplace or travel agency】** regardless of

1 whether payment for the accommodation is made through a means
2 provided by the marketplace or travel agency.

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

4

5 8. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 The bill modifies certain definitions that are applicable to the
11 State's transient accommodation taxes and fees. Specifically, the
12 bill alters the definitions of "obtained through a transient
13 marketplace" and "transient space marketplace."

14 Under current law, "obtained through a transient space
15 marketplace" means that payment for the accommodation is made
16 through a means provided by the marketplace or travel agency,
17 either directly or indirectly, regardless of which person or entity
18 receives the payment, and where the contracting for the
19 accommodation is made through the marketplace or travel agency.
20 The bill changes this definition to specify that the accommodation
21 is accepted through a means provided by the marketplace or travel
22 agency, regardless of whether payment for the accommodation is
23 made through a means provide by the marketplace or travel agency.

24 Further, the bill modifies the definition of "transient space
25 marketplace." Under current law, a transient space marketplace
26 means a marketplace or travel agency through which a person may
27 offer transient accommodations to customers and through which
28 customers may arrange for occupancies of transient
29 accommodations. The bill changes the definition to specify that a
30 marketplace or travel agency provides the service in exchange for a
31 fee.