

ASSEMBLY, No. 1753

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

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District 20 (Union)

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District 37 (Bergen)

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Co-Sponsored by:

Assemblyman Gusciora

SYNOPSIS

Imposes State sales and use tax and hotel and motel occupancy fee on transient accommodations; authorizes various municipal taxes and fees on transient accommodations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT imposing the State sales and use tax and hotel and motel
2 occupancy fee on transient accommodations and authorizing
3 various municipal taxes and fees on transient accommodations,
4 amending various parts of the statutory law, and supplementing
5 P.L.1966, c.30 (C.54:32B-1 et seq.).
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

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

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

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

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

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

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

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

33 "Transient accommodation" means a room, group of rooms, or
34 other living or sleeping space for the lodging of occupants,
35 including but not limited to residences or buildings used as
36 residences. "Transient accommodation" does not include: a hotel or
37 hotel room; a room, group of rooms, or other living or sleeping
38 space used as a place of assembly; a dormitory or other similar
39 residential facility of an elementary or secondary school or a
40 college or university; a hospital, nursing home, or other similar
41 residential facility of a provider of services for the care, support and
42 treatment of individuals that is licensed by the State; a campsite,
43 cabin, lean-to, or other similar residential facility of a campground
44 or an adult or youth camp; or a furnished or unfurnished private
45 residential property, including but not limited to condominiums,

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 bungalows, single-family homes and similar living units, where no
2 maid service, room service, linen changing service or other
3 common hotel services are made available by the lessor and where
4 the keys to the furnished or unfurnished private residential property,
5 whether a physical key, access to a keyless locking mechanism, or
6 other means of physical ingress to the furnished or unfurnished
7 private residential property, are provided to the lessee at the
8 location of an offsite real estate broker licensed by the New Jersey
9 Real Estate Commission pursuant to R.S.45:15-1 et seq.

10 “Transient space marketplace” means an online marketplace
11 through which a person may offer transient accommodations or
12 hotel rooms to individuals. A “transient space marketplace” allows
13 transient accommodations or hotel rooms to be advertised or listed
14 through an online marketplace and provides a means for a customer
15 to arrange for the occupancy of the transient accommodation or
16 hotel room in exchange for consideration directly through the online
17 marketplace.

18 (cf: P.L.2015, c.72, s.27)

19

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

22 85. a. Beginning on the first day of the first month next
23 following the enactment of P.L.2015 c.19 (C.5:10A-1 et al.), there
24 is imposed a Meadowlands regional hotel use assessment on the
25 rent for the occupancy of every room in every hotel or transient
26 accommodation located in the Meadowlands district, including any
27 hotels located on land owned by the State. The assessment imposed
28 under this subsection shall be 3% of the rent charged for every
29 occupancy of a room or rooms in a hotel or transient
30 accommodation subject to taxation pursuant to subsection (d) of
31 section 3 of P.L.1966, c.30 (C.54:32B-3), and shall be paid to the
32 Director of the Division of Taxation by each person required to
33 collect the tax not later than the 10th day of each month based on
34 the occupancy of rooms in that hotel or transient accommodation
35 during the previous calendar month.

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

43 Each person required to collect the assessment shall be
44 personally liable for the assessment imposed, collected, or required
45 to be paid, collected, or remitted under this section. Any such
46 person shall have the same right in respect to collecting the fee from
47 that person's customer or in respect to non-payment of the fee by
48 the customer as if the fee were a part of the purchase price of the

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

4 Notwithstanding any other provision of this section to the
5 contrary, the director may enter into an agreement with the owner
6 or operator of a transient space marketplace for the purpose of
7 collection and payment of the tax for transactions solely
8 consummated through the transient space marketplace. Upon
9 entering an agreement with the owner or operator of a transient
10 space marketplace, the director may waive the responsibility of a
11 person engaged in the business of providing transient
12 accommodations or hotel rooms to collect and pay the tax. The
13 owner or operator of the transient space marketplace shall agree to
14 be personally liable for the collection and payment of the tax on
15 behalf of a person engaged in the business of providing transient
16 accommodations or hotel rooms.

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

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

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

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

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

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

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

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

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

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

28 f. Terms used in this section shall have the meaning given
29 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).
30 (cf: P.L.2015, c.72, s.28)

31

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

34 3. As used in this act:

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

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

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

44 "Eligible municipality" means a municipality: (1) in which is
45 located part of an urban enterprise zone that has been designated
46 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any
47 supplement thereto; and (2) which has a population greater than
48 25,000 and less than 29,000 according to the latest federal decennial

1 census in a county of the third class with a population density
2 greater than 295 and less than 304 persons per square mile
3 according to the latest federal decennial census.

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

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

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

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

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

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

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

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

13 “Transient space marketplace” means an online marketplace
14 through which a person may offer transient accommodations or
15 hotel rooms to individuals. A “transient space marketplace” allows
16 transient accommodations or hotel rooms to be advertised or listed
17 through an online marketplace and provides a means for a customer
18 to arrange for the occupancy of the transient accommodation or
19 hotel room in exchange for consideration directly through the online
20 marketplace.

21 (cf: P.L.2007, c.30, s.3)

22

23 4. Section 5 of P.L.2007, c.30 (C.34:1B-194) is amended to
24 read as follows:

25 5. The governing body of a municipality that establishes a
26 sports and entertainment district may, as part of the ordinance
27 establishing the district: impose one or more of the taxes
28 enumerated in subsection a. of this section; dedicate some or all of
29 those taxes; and dedicate some or all of the taxes enumerated in
30 subsection b. of this section solely for the purposes of financing the
31 project costs of a sports and entertainment facility for the life of the
32 project, as appropriate, except that none of the taxes enumerated in
33 subsection a. or b. of this section shall be imposed or dedicated for
34 a period of more than 30 years.

35 a. The municipality may, by ordinance, impose any or all of the
36 following:

37 (1) a tax at the rate of 2% on the receipts from every sale within
38 the district of tangible personal property subject to taxation
39 pursuant to subsection (a) of section 3 of P.L.1966, c.30 (C.54:32B-
40 3);

41 (2) a tax at the rate of 2% on the receipts from every sale within
42 the district of food and drink subject to taxation pursuant to
43 subsection (c) of section 3 of P.L.1966, c.30 (C.54:32B-3);

44 (3) a tax at the rate of 2% on charges of rent for every
45 occupancy of a room or rooms in a hotel or transient
46 accommodation located within the district and subject to taxation
47 pursuant to subsection (d) of section 3 of P.L.1966, c.30 (C.54:32B-
48 3); or

1 (4) a tax at the rate of 2% on the admission charge to a place of
2 amusement within the district and subject to taxation pursuant to
3 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3).

4 b. The municipality may dedicate, by ordinance, any hotel and
5 motel occupancy tax revenues collected within the district that the
6 municipality is authorized to impose pursuant to section 3 of
7 P.L.2003, c.114 (C.40:48F-1) and, at the discretion of the
8 municipality, an additional charge of 2%.

9 c. A tax imposed under subsection a. of this section shall be in
10 addition to any other tax or fee imposed pursuant to statute or local
11 ordinance or resolution by any governmental entity upon the same
12 transaction.

13 d. A copy of an ordinance adopted pursuant to section 4 of
14 P.L.2007, c.30 (C.34:1B-193) shall be transmitted upon adoption or
15 amendment thereof to the State Treasurer. An ordinance so adopted
16 or any amendment thereto shall provide that the tax provisions of
17 the ordinance or any amendment to the tax provisions shall take
18 effect on the first day of the first full month occurring 90 days after
19 the date of transmittal to the State Treasurer.

20 e. A municipality that creates a district pursuant to section 4 of
21 P.L.2007, c.30 (C.34:1B-193), which overlaps, in whole or in part,
22 with an urban enterprise zone in which the receipts of certain sales
23 are exempt to the extent of 50% of the tax imposed under the "Sales
24 and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), pursuant to
25 section 21 of P.L.1983, c.303 (C.52:27H-80), shall continue to
26 administer those sales tax revenues collected within the designated
27 urban enterprise zone as otherwise provided pursuant to P.L.1983,
28 c.303 (C.52:27H-60 et seq.).
29 (cf: P.L.2007, c.30, s.5)

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

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

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

46 c. Notwithstanding any other provision of this section to the
47 contrary, the Director of the Division of Taxation in the Department
48 of the Treasury may enter into an agreement with the owner or

1 operator of a transient space marketplace for the purpose of
2 collection and payment of the tax for transactions solely
3 consummated through the transient space marketplace. Upon
4 entering an agreement with the owner or operator of a transient
5 space marketplace, the director may waive the responsibility of a
6 person engaged in the business of providing transient
7 accommodations or hotel rooms to collect and pay the tax. The
8 owner or operator of the transient space marketplace shall agree to
9 be personally liable for the collection and payment of the tax on
10 behalf of a person engaged in the business of providing transient
11 accommodations or hotel rooms.

12 (cf: P.L.2007, c.30, s.7)

13

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

16 2. As used in this act:

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

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

21 (2) Any cover charge, minimum charge, entertainment, or other
22 similar charge made to any patron of any restaurant, cafe, bar, hotel
23 or other similar establishment;

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

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

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

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

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

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

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

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

15 “Transient space marketplace” means an online marketplace
16 through which a person may offer transient accommodations or
17 hotel rooms to individuals. A “transient space marketplace” allows
18 transient accommodations or hotel rooms to be advertised or listed
19 through an online marketplace and provides a means for a customer
20 to arrange for the occupancy of the transient accommodation or
21 hotel room in exchange for consideration directly through the online
22 marketplace.

23 (cf: P.L.1985, c.83, s.34)

24
25 7. Section 1 of P.L.1980, c.60 (C.54:32B-24.1) is amended to
26 read as follows:

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

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

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

46 d. (1) Each vendor required to collect the tax imposed by a
47 municipal ordinance which was adopted pursuant to the provisions
48 of P.L.1947, c.71 (C.40:48-8.15 et seq.) shall be personally liable

1 for the tax imposed, collected, or required to be paid, collected, or
2 remitted under the ordinance. Any such vendor shall have the same
3 right in respect to collecting the tax from that vendor's customer or
4 in respect to non-payment of the tax by the customer as if the tax
5 were a part of the purchase price of the property or service,
6 amusement charge or rent, as the case may be, and payable at the
7 same time; provided however, that the director shall be joined as a
8 party in any action or proceeding brought to collect the tax.

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

15 e. Notwithstanding any other provision of this section to the
16 contrary, the director may enter into an agreement with the owner
17 or operator of a transient space marketplace for the purpose of
18 collection and payment of the tax imposed pursuant to the
19 provisions of P.L.1947, c.71 (C.40:48-8.15 et seq.) for transactions
20 solely consummated through the transient space marketplace. Upon
21 entering an agreement with the owner or operator of a transient
22 space marketplace, the director may waive the responsibility of a
23 person engaged in the business of providing transient
24 accommodations or hotel rooms to collect and pay the tax. The
25 owner or operator of the transient space marketplace shall agree to
26 be personally liable for the collection and payment of the tax on
27 behalf of a person engaged in the business of providing transient
28 accommodations or hotel rooms.

29 (cf: P.L.2007, c.102, s.3)

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

33 1. As used in this act:

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

38 b. "Director" means the Director of the Division of Taxation in
39 the Department of the Treasury.

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

45 d. "Hotel" means a building or a portion of a building which is
46 regularly used and kept open for the lodging of guests and includes
47 a hotel, motel, inn, and rooming or boarding house, whether or not
48 meals are served.

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

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

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

31 h. "Transient space marketplace" means an online marketplace
32 through which a person may offer transient accommodations or
33 hotel rooms to individuals. A "transient space marketplace" allows
34 transient accommodations or hotel rooms to be advertised or listed
35 through an online marketplace and provides a means for a customer
36 to arrange for the occupancy of the transient accommodation or
37 hotel room in exchange for consideration directly through the online
38 marketplace.

39 (cf: P.L.1991, c.376, s.1)

40
41 9. Section 2 of P.L.1991, c.376 (C.40:48-8.46) is amended to
42 read as follows:

43 2. There is authorized to be imposed on and collected from
44 hotels and transient accommodations in an eligible municipality,
45 fees for the promotion of tourism, conventions, resorts and casino
46 gaming, if any, in the eligible municipality.

47 (cf: P.L.1991, c.376, s.2)

1 10. Section 4 of P.L.1991, c.376 (C.40:48-8.48) is amended to
2 read as follows:

3 4. Fees under this act with respect to any eligible municipality
4 shall be adopted by resolution of the convention center operating
5 authority operating convention center facilities within the eligible
6 municipality. The rate thereof shall be \$2 per day for each occupied
7 room in the case of any hotels in the eligible municipality which
8 provide casino gaming, and \$1 per day for each occupied room in
9 the case of the other hotels or transient accommodations in the
10 eligible municipality. A certified copy of the resolution shall be
11 provided to the State Treasurer and the director.
12 (cf: P.L.1991, c.376, s.4)

13

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

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

30 The director may enter into an agreement with the owner or
31 operator of a transient space marketplace for the purpose of
32 collection and payment of the fee for transactions solely
33 consummated through the transient space marketplace. Upon
34 entering an agreement with the owner or operator of a transient
35 space marketplace, the director may waive the responsibility of a
36 person engaged in the business of providing transient
37 accommodations or hotel rooms to collect and pay the fee. The
38 owner or operator of the transient space marketplace shall agree to
39 be personally liable for the collection and payment of the fee on
40 behalf of a person engaged in the business of providing transient
41 accommodations or hotel rooms.

42 (cf: P.L.1991, c.376, s.5)

43

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

46 2. As used in this act "hotel" means a building or portion of it
47 which is regularly used and kept open as such for the lodging of

1 guests, and includes an apartment hotel, a motel, boarding house or
2 club, whether or not meals are served.

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

29 “Transient space marketplace” means an online marketplace
30 through which a person may offer transient accommodations or
31 hotel rooms to individuals. A “transient space marketplace” allows
32 transient accommodations or hotel rooms to be advertised or listed
33 through an online marketplace and provides a means for a customer
34 to arrange for the occupancy of the transient accommodation or
35 hotel room in exchange for consideration directly through the online
36 marketplace.

37 (cf: P.L.1981, c.77, s.2)

38

39 13. Section 3 of P.L.1981, c.77 (C.40:48E-3) is amended to read
40 as follows:

41 3. The governing body of any city of the first class or the
42 governing body of any city of the second class in which there is
43 located a terminal of an international airport may make, amend,
44 repeal and enforce an ordinance imposing in the city a tax, not to
45 exceed 6%, on charges for the use or occupation of rooms in hotels
46 or transient accommodations which tax shall be in addition to any
47 other tax imposed by law.

48 (cf: P.L.1991, c.23, s.3)

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

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

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

14 c. The chief fiscal officer of a municipality may enter into an
15 agreement with the owner or operator of a transient space
16 marketplace for the purpose of collection and payment of the tax for
17 transactions solely consummated through the transient space
18 marketplace. Upon entering an agreement with the owner or
19 operator of a transient space marketplace, the officer may waive the
20 responsibility of a person engaged in the business of providing
21 transient accommodations or hotel rooms to collect and pay the tax.
22 The owner or operator of the transient space marketplace shall
23 agree to be personally liable for the collection and payment of the
24 tax on behalf of a person engaged in the business of providing
25 transient accommodations or hotel rooms.

26 **[c.] d.** No person required to collect any tax hereunder shall
27 advertise or hold out to any person or to the public in general, in
28 any manner, directly or indirectly, that the tax will not be separately
29 charged and stated to the customer or that the tax will be refunded
30 to the customer.

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

34 **[e.] f.** The city shall enforce the payment of delinquent hotel
35 occupancy taxes in the same manner as provided for municipal real
36 property taxes.

37 (cf: P.L.1981, c.77, s.4)

38

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

41 3. The governing body of a municipality, other than a city of
42 the first class or a city of the second class in which the tax
43 authorized under P.L.1981, c.77 (C.40:48E-1 et seq.) is imposed, a
44 city of the fourth class in which the tax authorized under P.L.1947,
45 c.71 (C.40:48-8.15 et seq.) is imposed, or a municipality in which
46 the tax and assessment authorized under section 4 of P.L.1992,
47 c.165 (C.40:54D-4) is imposed, may adopt an ordinance imposing a
48 tax, at a uniform percentage rate not to exceed 1% on charges of

1 rent for every occupancy on or after July 1, 2003 but before July 1,
2 2004, and not to exceed 3% on charges of rent for every occupancy
3 on or after July 1, 2004, of a room or rooms in a hotel or transient
4 accommodation subject to taxation pursuant to subsection (d) of
5 section 3 of P.L.1966, c.30 (C.54:32B-3). An ordinance so adopted
6 may also require that unpaid taxes under this section shall be
7 subject to interest at the rate of 5% per annum.

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

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

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

30 (cf: P.L.2010, c.55, s.1)

31

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

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

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

46 c. Notwithstanding any other provision of this section to the
47 contrary, the Director of the Division of Taxation in the Department
48 of the Treasury may enter into an agreement with the owner or

1 operator of a transient space marketplace for the purpose of
2 collection and payment of the tax for transactions solely
3 consummated through the transient space marketplace. Upon
4 entering an agreement with the owner or operator of a transient
5 space marketplace, the director may waive the responsibility of a
6 person engaged in the business of providing transient
7 accommodations or hotel rooms to collect and pay the tax. The
8 owner or operator of the transient space marketplace shall agree to
9 be personally liable for the collection and payment of the tax on
10 behalf of a person engaged in the business of providing transient
11 accommodations or hotel rooms.
12 (cf: P.L.2003, c.114, s.5)

13
14 17. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to
15 read as follows:

16 3. As used in this act:

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

20 "Beach operation offset payment " means a payment made by an
21 authority to municipalities in its district for tourism development
22 activities related to operating and maintaining public beaches within
23 a zone to seaward of a line of demarcation located not more than
24 1,000 feet from the mean high water line.

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

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

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

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

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

47 "Cost" means all or any part of the expenses incurred in
48 connection with the acquisition, construction and maintenance of

1 any real property, lands, structures, real or personal property rights,
2 rights-of-way, franchises, easements, and interests acquired or used
3 for a project; any financing charges and reserves for the payment of
4 principal and interest on bonds or notes; the expenses of
5 engineering, appraisal, architectural, accounting, financial and legal
6 services; and other expenses as may be necessary or incident to the
7 acquisition, construction and maintenance of a project, the
8 financing thereof and the placing of the project into operation.

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

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

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

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

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

27 "Predominantly tourism related retail receipts" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 “Transient space marketplace” means an online marketplace
16 through which a person may offer transient accommodations or
17 hotel rooms to individuals. A “transient space marketplace” allows
18 transient accommodations or hotel rooms to be advertised or listed
19 through an online marketplace and provides a means for a customer
20 to arrange for the occupancy of the transient accommodation or
21 hotel room in exchange for consideration directly through the online
22 marketplace.

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

26 "Wildwood convention center facility" means the project
27 authorized by paragraph (12) of subsection a. of section 6 of
28 P.L.1971, c.137 (C.5:10-6).
29 (cf: P.L.2005, c.78, s.1)

30
31 18. Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to
32 read as follows:

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

44 (2) A vendor required to collect the tax upon predominantly
45 tourism related retail receipts and the tourism assessment shall be
46 personally liable for the tax or assessment imposed, collected, or
47 required to be paid, collected, or remitted under section 4 of
48 P.L.1992, c.165 (C.40:54D-4). Any such vendor shall have the

1 same right in respect to collecting the tax or assessment from that
2 vendor's customer or in respect to non-payment of the tax or
3 assessment by the customer as if the tax or assessment were a part
4 of the purchase price of the property or service, amusement charge
5 or rent, as the case may be, and payable at the same time; provided
6 however, that the director shall be joined as a party in any action or
7 proceeding brought to collect the tax or assessment.

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

14 (3) Notwithstanding any other provision of this section to the
15 contrary, the Director of the Division of Taxation in the Department
16 of the Treasury may enter into an agreement with the owner or
17 operator of a transient space marketplace for the purpose of
18 collection and payment of the tax for transactions solely
19 consummated through the transient space marketplace. Upon
20 entering an agreement with the owner or operator of a transient
21 space marketplace, the director may waive the responsibility of a
22 person engaged in the business of providing transient
23 accommodations or hotel rooms to collect and pay the tax. The
24 owner or operator of the transient space marketplace shall agree to
25 be personally liable for the collection and payment of the tax on
26 behalf of a person engaged in the business of providing transient
27 accommodations or hotel rooms.

28 b. The director may permit or require returns to be made
29 covering other periods and upon any dates as the director may
30 specify. In addition, the director may require payments of tax and
31 assessment liability at any intervals and based upon any
32 classifications as the director may designate. In prescribing any
33 other periods to be covered by the return or intervals or
34 classifications for payment of tax and assessment liability, the
35 director may take into account the dollar volume of tax and
36 assessment involved as well as the need for ensuring the prompt and
37 orderly collection of the tax imposed.

38 c. The director may require amended returns to be filed within
39 20 days after notice and to contain the information specified in the
40 notice.

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

44 (cf: P.L.2007, c.102, s.1)

45
46 19. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read
47 as follows:

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

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

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

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

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

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

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

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

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

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

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

47 (B) The transfer of tangible personal property to a corporation,
48 solely in consideration for the issuance of its stock, pursuant to a

1 merger or consolidation effected under the laws of New Jersey or
2 any other jurisdiction.

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

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

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

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

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

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

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

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

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

39 (1) The term "seller" includes:

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

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

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

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

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

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

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

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

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

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

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

24 (3) Notwithstanding any other provision of this section to the
25 contrary, the director may enter into an agreement with the owner
26 or operator of a transient space marketplace for the purpose of
27 collection and payment of the tax for transactions solely
28 consummated through the transient space marketplace. Upon
29 entering an agreement with the owner or operator of a transient
30 space marketplace, the director may waive the responsibility of a
31 person engaged in the business of providing transient
32 accommodations or hotel rooms to collect and pay the tax. The
33 owner or operator of the transient space marketplace shall agree to
34 be personally liable for the collection and payment of the tax on
35 behalf of a person engaged in the business of providing transient
36 accommodations or hotel rooms.

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

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

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

- 1 (m) "Permanent resident" means any occupant of any room or
2 rooms in a hotel or transient accommodation for at least 90
3 consecutive days shall be considered a permanent resident with
4 regard to the period of such occupancy.
- 5 (n) "Room" means any room or rooms of any kind in any part or
6 portion of a hotel or transient accommodation, which is available
7 for or let out for any purpose other than a place of assembly.
- 8 (o) "Admission charge" means the amount paid for admission,
9 including any service charge and any charge for entertainment or
10 amusement or for the use of facilities therefor.
- 11 (p) "Amusement charge" means any admission charge, dues or
12 charge of a roof garden, cabaret or other similar place.
- 13 (q) "Charge of a roof garden, cabaret or other similar place"
14 means any charge made for admission, refreshment, service, or
15 merchandise at a roof garden, cabaret or other similar place.
- 16 (r) "Dramatic or musical arts admission charge" means any
17 admission charge paid for admission to a theater, opera house,
18 concert hall or other hall or place of assembly for a live, dramatic,
19 choreographic or musical performance.
- 20 (s) "Lessor" means any person who is the owner, licensee, or
21 lessee of any premises, tangible personal property or a specified
22 digital product which the person leases, subleases, or grants a
23 license to use to other persons.
- 24 (t) "Place of amusement" means any place where any facilities
25 for entertainment, amusement, or sports are provided.
- 26 (u) "Casual sale" means an isolated or occasional sale of an item
27 of tangible personal property or a specified digital product by a
28 person who is not regularly engaged in the business of making retail
29 sales of such property or product where the item of tangible
30 personal property or the specified digital product was obtained by
31 the person making the sale, through purchase or otherwise, for the
32 person's own use.
- 33 (v) "Motor vehicle" includes all vehicles propelled otherwise
34 than by muscular power (excepting such vehicles as run only upon
35 rails or tracks), trailers, semitrailers, house trailers, or any other
36 type of vehicle drawn by a motor-driven vehicle, and motorcycles,
37 designed for operation on the public highways.
- 38 (w) "Persons required to collect tax" or "persons required to
39 collect any tax imposed by this act" includes: every seller of
40 tangible personal property, specified digital products or services;
41 every recipient of amusement charges; every operator of a hotel or
42 transient accommodation; every seller of a telecommunications
43 service; every recipient of initiation fees, membership fees or dues
44 for access to or use of the property or facilities of a health and
45 fitness, athletic, sporting or shopping club or organization; and
46 every recipient of charges for parking, storing or garaging a motor
47 vehicle. Said terms shall also include any officer or employee of a
48 corporation or of a dissolved corporation who as such officer or

1 employee is under a duty to act for such corporation in complying
2 with any requirement of this act and any member of a partnership.

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

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

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

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

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

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

47 (B) A transfer of possession or control of property under an
48 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;

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

46 (9) tangible personal property;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (B) The cost of materials used, labor or service cost, interest,
2 losses, all costs of transportation to the seller, all taxes imposed on
3 the seller, and any other expense of the seller;
- 4 (C) Charges by the seller for any services necessary to complete
5 the sale;
- 6 (D) Delivery charges;
- 7 (E) (Deleted by amendment, P.L.2011, c.49); and
- 8 (F) (Deleted by amendment, P.L.2008, c.123).
- 9 (2) "Sales price" does not include:
- 10 (A) Discounts, including cash, term, or coupons that are not
11 reimbursed by a third party, that are allowed by a seller and taken
12 by a purchaser on a sale;
- 13 (B) Interest, financing, and carrying charges from credit
14 extended on the sale of personal property or services, if the amount
15 is separately stated on the invoice, bill of sale, or similar document
16 given to the purchaser;
- 17 (C) Any taxes legally imposed directly on the consumer that are
18 separately stated on the invoice, bill of sale, or similar document
19 given to the purchaser;
- 20 (D) The amount of sales price for which food stamps have been
21 properly tendered in full or part payment pursuant to the federal
22 Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or
- 23 (E) Credit for any trade-in of property of the same kind accepted
24 in part payment and intended for resale if the amount is separately
25 stated on the invoice, bill of sale, or similar document given to the
26 purchaser.
- 27 (3) "Sales price" includes consideration received by the seller
28 from third parties if:
- 29 (A) The seller actually receives consideration from a party other
30 than the purchaser and the consideration is directly related to a price
31 reduction or discount on the sale;
- 32 (B) The seller has an obligation to pass the price reduction or
33 discount through to the purchaser;
- 34 (C) The amount of the consideration attributable to the sale is
35 fixed and determinable by the seller at the time of the sale of the
36 item to the purchaser; and
- 37 (D) One of the following criteria is met:
- 38 (i) the purchaser presents a coupon, certificate, or other
39 documentation to the seller to claim a price reduction or discount
40 where the coupon, certificate, or documentation is authorized,
41 distributed, or granted by a third party with the understanding that
42 the third party will reimburse any seller to whom the coupon,
43 certificate, or documentation is presented;
- 44 (ii) the purchaser identifies himself to the seller as a member of a
45 group or organization entitled to a price reduction or discount;
46 provided however, that a preferred customer card that is available to
47 any patron does not constitute membership in such a group; or

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

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

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

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

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

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

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

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

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

- 1 (ww) "Landscaping services" means services that result in a
2 capital improvement to land other than structures of any kind
3 whatsoever, such as: seeding, sodding or grass plugging of new
4 lawns; planting trees, shrubs, hedges, plants; and clearing and
5 filling land.
- 6 (xx) "Investigation and security services" means:
7 (1) investigation and detective services, including detective
8 agencies and private investigators, and fingerprint, polygraph,
9 missing person tracing and skip tracing services;
10 (2) security guard and patrol services, including bodyguard and
11 personal protection, guard dog, guard, patrol, and security services;
12 (3) armored car services; and
13 (4) security systems services, including security, burglar, and
14 fire alarm installation, repair or monitoring services.
- 15 (yy) "Information services" means the furnishing of information
16 of any kind, which has been collected, compiled, or analyzed by the
17 seller, and provided through any means or method, other than
18 personal or individual information which is not incorporated into
19 reports furnished to other people.
- 20 (zz) "Specified digital product" means an electronically
21 transferred digital audio-visual work, digital audio work, or digital
22 book; provided however, that a digital code which provides a
23 purchaser with a right to obtain the product shall be treated in the
24 same manner as a specified digital product.
- 25 (aaa) "Digital audio-visual work" means a series of related
26 images which, when shown in succession, impart an impression of
27 motion, together with accompanying sounds, if any.
- 28 (bbb) "Digital audio work" means a work that results from the
29 fixation of a series of musical, spoken, or other sounds, including a
30 ringtone.
- 31 (ccc) "Digital book" means a work that is generally recognized in
32 the ordinary and usual sense as a book.
- 33 (ddd) "Transferred electronically" means obtained by the
34 purchaser by means other than tangible storage media.
- 35 (eee) "Ringtone" means a digitized sound file that is downloaded
36 onto a device and that may be used to alert the purchaser with
37 respect to a communication.
- 38 (fff) "Residence" means a house, condominium, or other
39 residential dwelling unit in a building or structure or part of a
40 building or structure that is designed, constructed, leased, rented, let
41 or hired out, or otherwise made available for use as a residence.
- 42 (ggg) "Transient accommodation" means a room, group of
43 rooms, or other living or sleeping space for the lodging of
44 occupants, including but not limited to residences or buildings used
45 as residences. "Transient accommodation" does not include: a hotel
46 or hotel room; a room, group of rooms, or other living or sleeping
47 space used as a place of assembly; a dormitory or other similar
48 residential facility of an elementary or secondary school or a

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

16 (hhh) “Transient space marketplace” means an online
17 marketplace through which a person may offer transient
18 accommodations or hotel rooms to individuals. A “transient space
19 marketplace” allows transient accommodations or hotel rooms to be
20 advertised or listed through an online marketplace and provides a
21 means for a customer to arrange for the occupancy of the transient
22 accommodation or hotel room in exchange for consideration
23 directly through the online marketplace.

24 (cf: P.L.2014, c.13, s.4)

25

26 20. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read
27 as follows:

28 3. There is imposed and there shall be paid a tax of 7% on or
29 before December 31, 2016, 6.875% on and after January 1, 2017 but
30 before January 1, 2018, and 6.625% on and after January 1, 2018
31 upon:

32 (a) The receipts from every retail sale of tangible personal
33 property or a specified digital product for permanent use or less
34 than permanent use, and regardless of whether continued payment is
35 required, except as otherwise provided in P.L.1966, c.30 (C.54:32B-
36 1 et seq.).

37 (b) The receipts from every sale, except for resale, of the
38 following services:

39 (1) Producing, fabricating, processing, printing, or imprinting
40 tangible personal property or a specified digital product, performed
41 for a person who directly or indirectly furnishes the tangible
42 personal property or specified digital product, not purchased by the
43 person for resale, upon which these services are performed.

44 (2) Installing tangible personal property or a specified digital
45 product, or maintaining, servicing, repairing tangible personal
46 property or a specified digital product not held for sale in the
47 regular course of business, whether or not the services are
48 performed directly or by means of coin-operated equipment or by

1 any other means, and whether or not any tangible personal property
2 or specified digital product is transferred in conjunction therewith,
3 except (i) such services rendered by an individual who is engaged
4 directly by a private homeowner or lessee in or about his residence
5 and who is not in a regular trade or business offering his services to
6 the public, (ii) such services rendered with respect to personal
7 property exempt from taxation hereunder pursuant to section 13 of
8 P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment,
9 P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning,
10 tailoring, weaving, or pressing clothing, and shoe repairing and
11 shoeshining, and (v) services rendered in installing property which,
12 when installed, will constitute an addition or capital improvement to
13 real property, property or land, other than landscaping services and
14 other than installing carpeting and other flooring.

15 (3) Storing all tangible personal property not held for sale in the
16 regular course of business; the rental of safe deposit boxes or
17 similar space; and the furnishing of space for storage of tangible
18 personal property by a person engaged in the business of furnishing
19 space for such storage.

20 "Space for storage" means secure areas, such as rooms, units,
21 compartments, or containers, whether accessible from outside or
22 from within a building, that are designated for the use of a customer
23 and wherein the customer has free access within reasonable
24 business hours, or upon reasonable notice to the furnisher of space
25 for storage, to store and retrieve property. Space for storage shall
26 not include the lease or rental of an entire building, such as a
27 warehouse or airplane hangar.

28 (4) Maintaining, servicing, or repairing real property, other than
29 a residential heating system unit serving not more than three
30 families living independently of each other and doing their cooking
31 on the premises, whether the services are performed in or outside of
32 a building, as distinguished from adding to or improving the real
33 property by a capital improvement, but excluding services rendered
34 by an individual who is not in a regular trade or business offering
35 his services to the public, and excluding garbage removal and sewer
36 services performed on a regular contractual basis for a term not less
37 than 30 days.

38 (5) Mail processing services for printed advertising material,
39 except for mail processing services in connection with distribution
40 of printed advertising material to out-of-State recipients.

41 (6) (Deleted by amendment, P.L.1995, c.184)

42 (7) Utility service provided to persons in this State, any right or
43 power over which is exercised in this State.

44 (8) Tanning services, including the application of a temporary
45 tan provided by any means.

46 (9) Massage, bodywork, or somatic services, except such
47 services provided pursuant to a doctor's prescription.

1 (10) Tattooing, including all permanent body art and permanent
2 cosmetic make-up applications, except such services provided
3 pursuant to a doctor's prescription in conjunction with
4 reconstructive breast surgery.

5 (11) Investigation and security services.

6 (12) Information services.

7 (13) (Deleted by amendment, P.L.2017, c.27)

8 (14) Telephone answering services.

9 (15) Radio subscription services.

10 Wages, salaries, and other compensation paid by an employer to
11 an employee for performing as an employee the services described
12 in this subsection are not receipts subject to the taxes imposed
13 under subsection (b) of this section.

14 Services otherwise taxable under paragraph (1) or (2) of
15 subsection (b) of this section are not subject to the taxes imposed
16 under this subsection, where the tangible personal property or
17 specified digital product upon which the services were performed is
18 delivered to the purchaser outside this State for use outside this
19 State.

20 (c) (1) Receipts from the sale of prepared food in or by
21 restaurants, taverns, or other establishments in this State, or by
22 caterers, including in the amount of such receipts any cover,
23 minimum, entertainment, or other charge made to patrons or
24 customers, except for meals especially prepared for and delivered to
25 homebound elderly, age 60 or older, and to persons with
26 disabilities, or meals prepared and served at a group-sitting at a
27 location outside of the home to otherwise homebound elderly
28 persons, age 60 or older, and otherwise homebound persons with
29 disabilities, as all or part of any food service project funded in
30 whole or in part by government or as part of a private, nonprofit
31 food service project available to all such elderly or persons with
32 disabilities residing within an area of service designated by the
33 private nonprofit organization; and

34 (2) Receipts from sales of food and beverages sold through
35 vending machines, at the wholesale price of such sale, which shall
36 be defined as 70% of the retail vending machine selling price,
37 except sales of milk, which shall not be taxed. Nothing herein
38 contained shall affect other sales through coin-operated vending
39 machines taxable pursuant to subsection (a) above or the exemption
40 thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

41 The tax imposed by subsection (c) of this section shall not apply
42 to food or drink which is sold to an airline for consumption while in
43 flight.

44 (3) For the purposes of this subsection:

45 "Food and beverages sold through vending machines" means
46 food and beverages dispensed from a machine or other mechanical
47 device that accepts payment; and

48 "Prepared food" means:

- 1 (i) A. food sold in a heated state or heated by the seller; or
2 B. two or more food ingredients mixed or combined by the
3 seller for sale as a single item, but not including food that is only
4 cut, repackaged, or pasteurized by the seller, and eggs, fish, meat,
5 poultry, and foods containing these raw animal foods requiring
6 cooking by the consumer as recommended by the Food and Drug
7 Administration in Chapter 3, part 401.11 of its Food Code so as to
8 prevent food borne illnesses; or
9 C. food sold with eating utensils provided by the seller,
10 including plates, knives, forks, spoons, glasses, cups, napkins, or
11 straws. A plate does not include a container or packaging used to
12 transport the food;
13 provided however, that
14 (ii) "prepared food" does not include the following sold without
15 eating utensils:
16 A. food sold by a seller whose proper primary NAICS
17 classification is manufacturing in section 311, except subsector
18 3118 (bakeries);
19 B. food sold in an unheated state by weight or volume as a
20 single item; or
21 C. bakery items, including bread, rolls, buns, biscuits, bagels,
22 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,
23 muffins, bars, cookies, and tortillas.
24 (d) The rent for every occupancy of a room or rooms in a hotel
25 or transient accommodation in this State, except that the tax shall
26 not be imposed upon a permanent resident.
27 (e) (1) Any admission charge to or for the use of any place of
28 amusement in the State, including charges for admission to race
29 tracks, baseball, football, basketball or exhibitions, dramatic or
30 musical arts performances, motion picture theaters, except charges
31 for admission to boxing, wrestling, kick boxing, or combative
32 sports exhibitions, events, performances, or contests which charges
33 are taxed under any other law of this State or under section 20 of
34 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for
35 admission to, or use of, facilities for sporting activities in which the
36 patron is to be a participant, such as bowling alleys and swimming
37 pools. For any person having the permanent use or possession of a
38 box or seat or lease or a license, other than a season ticket, for the
39 use of a box or seat at a place of amusement, the tax shall be upon
40 the amount for which a similar box or seat is sold for each
41 performance or exhibition at which the box or seat is used or
42 reserved by the holder, licensee, or lessee, and shall be paid by the
43 holder, licensee, or lessee.
44 (2) The amount paid as charge of a roof garden, cabaret, or other
45 similar place in this State, to the extent that a tax upon these
46 charges has not been paid pursuant to subsection (c) hereof.
47 (f) (1) The receipts from every sale, except for resale, of
48 intrastate, interstate, or international telecommunications services

1 and ancillary services sourced to this State in accordance with
2 section 29 of P.L.2005, c.126 (C.54:32B-3.4).

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

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

5 (h) Charges in the nature of initiation fees, membership fees or
6 dues for access to or use of the property or facilities of a health and
7 fitness, athletic, sporting, or shopping club or organization in this
8 State, except for: (1) membership in a club or organization whose
9 members are predominantly age 18 or under; and (2) charges in the
10 nature of membership fees or dues for access to or use of the
11 property or facilities of a health and fitness, athletic, sporting, or
12 shopping club or organization that is exempt from taxation pursuant
13 to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30
14 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph
15 (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30
16 (C.54:32B-9) and that has complied with subsection (d) of section 9
17 of P.L.1966, c.30 (C.54:32B-9).

18 (i) The receipts from parking, storing, or garaging a motor
19 vehicle, excluding charges for the following: residential parking;
20 employee parking, when provided by an employer or at a facility
21 owned or operated by the employer; municipal parking, storing, or
22 garaging; receipts from charges or fees imposed pursuant to section
23 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement
24 between the Casino Reinvestment Development Authority and a
25 casino operator in effect on the date of enactment of P.L.2007,
26 c.105; and receipts from parking, storing, or garaging a motor
27 vehicle subject to tax pursuant to any other law or ordinance.

28 For the purposes of this subsection, "municipal parking, storing,
29 or garaging" means any motor vehicle parking, storing, or garaging
30 provided by a municipality or county, or a parking authority
31 thereof.

32 (cf: P.L.2017, c.27, s.1)

33

34 21. Section 9 of P.L.1966, c.30 (C.54:32B-9) is amended to read
35 as follows:

36 9. (a) Except as to motor vehicles sold by any of the following,
37 any sale, service or amusement charge by or to any of the following
38 or any use or occupancy by any of the following shall not be subject
39 to the sales and use taxes imposed under this act:

40 (1) The State of New Jersey, or any of its agencies,
41 instrumentalities, public authorities, public corporations (including
42 a public corporation created pursuant to agreement or compact with
43 another state) or political subdivisions where it is the purchaser,
44 user or consumer, or where it is a seller of services or property of a
45 kind not ordinarily sold by private persons;

46 (2) The United States of America, and any of its agencies and
47 instrumentalities, insofar as it is immune from taxation where it is

1 the purchaser, user or consumer, or where it sells services or
2 property of a kind not ordinarily sold by private persons;

3 (3) The United Nations or any international organization of
4 which the United States of America is a member where it is the
5 purchaser, user or consumer, or where it sells services or property
6 of a kind not ordinarily sold by private persons.

7 (b) Except as otherwise provided in this section any sale or
8 amusement charge by or to any of the following or any use or
9 occupancy by any of the following, where such sale, charge, use or
10 occupancy is directly related to the purposes for which the
11 following have been organized, shall not be subject to the sales and
12 use taxes imposed under this act: a corporation, association, trust,
13 or community chest, fund or foundation, organized and operated
14 exclusively (1) for religious, charitable, scientific, testing for public
15 safety, literary or educational purposes; or (2) for the prevention of
16 cruelty to children or animals; or (3) as a volunteer fire company,
17 rescue, ambulance, first aid or emergency company or squad; or (4)
18 as a National Guard organization, post or association, or as a post or
19 organization of war veterans, or the Marine Corps League, or as an
20 auxiliary unit or society of any such post, organization or
21 association; or (5) as an association of parents and teachers of an
22 elementary or secondary public or private school exempt under the
23 provisions of this section. Such a sale, charge, use or occupancy
24 by, or a sale or charge to, an organization enumerated in this
25 subsection, shall not be subject to the sales and use taxes only if no
26 part of the net earnings of the organization inures to the benefit of
27 any private shareholder or individual, no substantial part of the
28 activities of the organization is carrying on propaganda, or
29 otherwise attempting to influence legislation, and the organization
30 does not participate in, or intervene in (including the publishing or
31 distributing of statements), any political campaign on behalf of any
32 candidate for public office.

33 (c) Nothing in this section shall exempt from the taxes imposed
34 under the "Sales and Use Tax Act":

35 (1) the sale of a motor vehicle by an organization described in
36 subsection (b) of this section, unless the purchaser is an
37 organization exempt under this section;

38 (2) retail sales of tangible personal property or specified digital
39 products by any shop or store operated by an organization described
40 in subsection (b) of this section, unless the tangible personal
41 property or specified digital product was received by the
42 organization as a gift or contribution and the shop or store is one in
43 which substantially all the work in carrying on the business of the
44 shop or store is performed for the organization without
45 compensation and substantially all of the shop's or store's
46 merchandise has been received by the organization as gifts or
47 contributions or unless the purchaser is an organization exempt
48 under this section; or

- 1 (3) the sale or use of energy or utility service to or by an
2 organization described in paragraph (1) of subsection (a) or
3 subsection (b) of this section.
- 4 (d) Any organization enumerated in subsection (b) of this
5 section shall not be entitled to an exemption granted pursuant to this
6 section unless it has complied with such requirements for obtaining
7 a tax immunity authorization as may be provided in this act.
- 8 (e) Where any organization described in subsection (b) of this
9 subsection carries on its activities in furtherance of the purposes for
10 which it was organized, in premises in which, as part of those
11 activities, it operates a hotel or transient accommodation,
12 occupancy of rooms in the premises and rents from those rooms
13 received by the organization shall not be subject to tax under the
14 "Sales and Use Tax Act."
- 15 (f) (1) Except as provided in paragraph (2) of this subsection,
16 any admissions all of the proceeds of which inure exclusively to the
17 benefit of the following organizations shall not be subject to any of
18 the taxes imposed under subsection (e) of section 3 of P.L.1966,
19 c.30 (C.54:32B-3):
- 20 (A) an organization described in paragraph (1) of subsection (a)
21 or subsection (b) of this section;
- 22 (B) a society or organization conducted for the sole purpose of
23 maintaining symphony orchestras or operas and receiving
24 substantial support from voluntary contributions; or
- 25 (C) (Deleted by amendment, P.L.1999, c.416).
- 26 (D) a police or fire department of a political subdivision of the
27 State, or a volunteer fire company, ambulance, first aid, or
28 emergency company or squad, or exclusively to a retirement,
29 pension or disability fund for the sole benefit of members of a
30 police or fire department or to a fund for the heirs of such members.
- 31 (2) The exemption provided under paragraph (1) of this
32 subsection shall not apply in the case of admissions to:
- 33 (A) Any athletic game or exhibition unless the proceeds shall
34 inure exclusively to the benefit of elementary or secondary schools
35 or unless in the case of an athletic game between two elementary or
36 secondary schools, the entire gross proceeds from such game shall
37 inure to the benefit of one or more organizations described in
38 subsection (b) of this section;
- 39 (B) Carnivals, rodeos, or circuses in which any professional
40 performer or operator participates for compensation;
- 41 (3) Admission charges for admission to the following places or
42 events shall not be subject to any of the taxes imposed under
43 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):
- 44 (A) Any admission to agricultural fairs if no part of the net
45 earnings thereof inures to the benefit of any stockholders or
46 members of the association conducting the same; provided the
47 proceeds therefrom are used exclusively for the improvement,
48 maintenance and operation of such agricultural fairs.

1 (B) Any admission to a home or garden which is temporarily
2 open to the general public as a part of a program conducted by a
3 society or organization to permit the inspection of historical homes
4 and gardens; provided no part of the net earnings thereof inures to
5 the benefit of any private stockholder or individual.

6 (C) Any admissions to historic sites, houses and shrines, and
7 museums conducted in connection therewith, maintained and
8 operated by a society or organization devoted to the preservation
9 and maintenance of such historic sites, houses, shrines and
10 museums; provided no part of the net earnings thereof inures to the
11 benefit of any private stockholder or individual.

12 (cf: P.L.2011, c.49, s.10)

13
14 22. Section 1 of P.L.2003, c.114 (C.54:32D-1) is amended to
15 read as follows:

16 1. a. In addition to any other tax, assessment or use fee
17 authorized by law, there is imposed and shall be paid a hotel and
18 motel occupancy fee of 7% for occupancies on and after August 1,
19 2003 but before July 1, 2004, and of 5% for occupancies on and
20 after July 1, 2004, upon the rent for every occupancy of a room or
21 rooms in a hotel or transient accommodation subject to taxation
22 pursuant to subsection (d) of section 3 of P.L.1966, c.30 (C:54:32B-
23 3), which every person required to collect tax shall collect from the
24 customer when collecting the rent to which it applies; provided
25 however, that on and after the tenth day following a certification by
26 the Director of the Division of Budget and Accounting in the
27 Department of the Treasury pursuant to subsection d. of section 2 of
28 P.L.2003, c.114 (C.54:32D-2), no such fee shall be paid or
29 collected; and provided further that:

30 (1) the combined rates of the fee imposed under this section,
31 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
32 c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947,
33 c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of 14% on
34 or before December 31, 2016, 13.875% on and after January 1,
35 2017 but before January 1, 2018, and 13.625% on and after January
36 1, 2018, and to the extent that the total combined rate of taxation for
37 the listed fees and taxes would exceed 14% on or before December
38 31, 2016, 13.875% on and after January 1, 2017 but before January
39 1, 2018, and 13.625% on and after January 1, 2018, the fee imposed
40 under this section shall be reduced so that the total combined rate
41 equals 14% on or before December 31, 2016, 13.875% on and after
42 January 1, 2017 but before January 1, 2018, and 13.625% on and
43 after January 1, 2018;

44 (2) the combined rates of the fee imposed under this section,
45 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
46 c.30 (C.54:32B-1 et seq.), plus any tax and assessment imposed
47 under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a
48 total rate of 14% on or before December 31, 2016, 13.875% on and

1 after January 1, 2017 but before January 1, 2018, and 13.625% on
2 and after January 1, 2018, and to the extent that the total combined
3 rate of taxation for the listed fees and taxes would exceed 14% on
4 or before December 31, 2016, 13.875% on and after January 1,
5 2017 but before January 1, 2018, and 13.625% on and after January
6 1, 2018, the fee imposed under this section shall be reduced so that
7 the total combined rate equals 14% on or before December 31,
8 2016, 13.875% on and after January 1, 2017 but before January 1,
9 2018, and 13.625% on and after January 1, 2018; and

10 (3) the fee imposed under this section shall be at the rate of 1%
11 in a city in which the tax authorized under P.L.1981,
12 c.77 (C.40:48E-1 et seq.) is imposed.

13 b. The hotel and motel occupancy fee imposed by subsection a.
14 of this section shall not be imposed on the rent for an occupancy if
15 the purchaser, user or consumer is an entity exempt from the tax
16 imposed on an occupancy under the "Sales and Use Tax Act"
17 pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-
18 9).

19 c. Terms used in this section shall have the meaning given
20 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).
21 (cf: P.L.2016, c.57, s.6)

22

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

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

29 (1) of the fees collected for occupancies during State Fiscal
30 Year 2004: \$16,000,000 shall be allocated for appropriation to the
31 New Jersey State Council on the Arts for cultural projects;
32 \$2,700,000 shall be allocated for appropriation to the New Jersey
33 Historical Commission for the purposes of subsection a. of section 3
34 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated
35 for appropriation to the New Jersey Commerce and Economic
36 Growth Commission for tourism advertising and promotion; and
37 \$500,000 shall be allocated for appropriation to the New Jersey
38 Cultural Trust; and

39 (2) of the fees collected for occupancies during State Fiscal
40 Year 2005 and thereafter: 22.68 percent shall be annually allocated
41 for appropriation to the New Jersey State Council on the Arts for
42 cultural projects, provided that the amount allocated shall not be
43 less than \$22,680,000; 3.84 percent shall be allocated for
44 appropriation to the New Jersey Historical Commission for the
45 purposes of subsection a. of section 3 of P.L.1999,
46 c.131 (C.18A:73-22.3), provided that the amount allocated shall not
47 be less than \$3,840,000; 12.76 percent shall be allocated for
48 appropriation to the New Jersey Commerce and Economic Growth

1 Commission for tourism advertising and promotion, provided that
2 the amount allocated shall not be less than \$12,760,000; and .72
3 percent shall be allocated for appropriation to the New Jersey
4 Cultural Trust, provided that the amount allocated shall not be less
5 than \$720,000.

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

14 (2) Each person required to collect the hotel and motel
15 occupancy fee shall be personally liable for the fee imposed,
16 collected, or required to be paid, collected, or remitted under
17 section 1 of P.L.2003, c.114 (C.54:32D-1). Any such person shall
18 have the same right in respect to collecting the fee from that
19 person's customer or in respect to non-payment of the fee by the
20 customer as if the fee were a part of the purchase price of the
21 occupancy or rent, as the case may be, and payable at the same
22 time; provided however, that the director shall be joined as a party
23 in any action or proceeding brought to collect the fee.

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

30 (3) Notwithstanding any other provision of this section to the
31 contrary, the director may enter into an agreement with the owner
32 or operator of a transient space marketplace for the purpose of
33 collection and payment of the fee for transactions solely
34 consummated through the transient space marketplace. Upon
35 entering an agreement with the owner or operator of a transient
36 space marketplace, the director may waive the responsibility of a
37 person engaged in the business of providing transient
38 accommodations or hotel rooms to collect and pay the fee. The
39 owner or operator of the transient space marketplace shall agree to
40 be personally liable for the collection and payment of the fee on
41 behalf of a person engaged in the business of providing transient
42 accommodations or hotel rooms.

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

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

12 e. The Director of the Division of Taxation shall, no later than
13 five days after certification by the Director of the Division of
14 Budget and Accounting in the Department of the Treasury pursuant
15 to subsection d. of this section that the provisions of subsection c.
16 of this section have not been met or have been violated by an
17 amendment or supplement to the annual appropriations act, notify
18 each person required to collect tax of the certification and that the
19 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1)
20 shall no longer be paid or collected.
21 (cf: P.L.2007, c.102, s.4)

22
23 24. (New section) Notwithstanding the provisions of the
24 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
25 seq.) to the contrary, the Director of the Division of Taxation in the
26 Department of the Treasury, in consultation with the Director of the
27 Division of Local Government Services in the Department of
28 Community Affairs, may adopt immediately upon filing with the
29 Office of Administrative Law such rules and regulations as the
30 director determines to be necessary to effectuate the purposes of
31 P.L. , c. (C.) (pending before the Legislature as this bill),
32 which rules and regulations shall be effective for a period not to
33 exceed 360 days following the effective date of P.L. ,
34 c. (C.) (pending before the Legislature as this bill) and may
35 thereafter be amended, adopted, or readopted by the director in
36 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
37 et seq.).

38
39 25. This act shall take effect immediately, but sections one
40 through 23 shall remain inoperative until the first day of the first
41 full calendar quarter beginning at least 90 days following the date
42 of enactment.

43

44

STATEMENT

45

46 This bill imposes the sales and use tax and the State hotel and
47 motel occupancy fee on charges for the occupancy of a transient
48 accommodation in this State, and permits municipalities authorized

1 to impose the Meadowlands regional hotel use assessment, the
2 sports and entertainment facility tax, the Atlantic City luxury tax,
3 the Atlantic City promotion fee, the hotel occupancy tax, the
4 municipal hotel and motel occupancy tax, and the Cape May
5 County tourism tax and assessment to similarly require the
6 collection of tax on charges for the occupancy of a transient
7 accommodation.

8 Under current law, the sales and use tax and the State hotel and
9 motel occupancy fee are generally imposed on charges for the
10 occupancy of a room or rooms in a hotel in this State. Current law
11 also permits certain municipalities to impose, through the adoption
12 of a municipal ordinance, similar taxes, fees, and assessments on
13 charges for the occupancy of a room or rooms in a hotel that is
14 located in the municipality electing to impose the tax.

15 Current law does not, however, impose, or permit municipalities
16 to require the collection of, taxes, fees, and assessments on charges
17 for the rental of real property. As a result, charges for occupancies
18 that occur in other types of real property, such as the rental of a
19 spare bedroom in an apartment or the lease of living or sleeping
20 spaces in a single-family house, are not subject to tax.

21 This bill amends the sales and use tax, the State hotel and motel
22 occupancy fee, and the various other municipal taxes, fees, and
23 assessments that apply to hotel room occupancies to extend those
24 taxes, fees, and assessments to certain occupancies that occur in
25 some of these other types of real property. Under the bill, charges
26 for the occupancy of a transient accommodation will be subject to
27 tax in the same form and manner as charges for the occupancy of a
28 room or rooms in a hotel.

29 For purposes of the bill, a transient accommodation is a room,
30 group of rooms, or other living or sleeping space for the lodging of
31 occupants, including but not limited to residences or buildings used
32 as residences. The bill defines a residence as a house,
33 condominium, or other residential dwelling unit in a building or
34 structure or part of a building or structure that is designed,
35 constructed, leased, rented, let or hired out, or otherwise made
36 available for use as a residence.

37 The bill excludes from the definition of a transient
38 accommodation and, therefore, does not impose, or permit
39 municipalities to require the collection of, taxes, fees, and
40 assessments on charges for the occupancy of:

41 -- a hotel or hotel room;

42 -- a room, group of rooms, or other living or sleeping space used
43 as a place of assembly;

44 -- a dormitory or other similar residential facility of an
45 elementary or secondary school or a college or university;

46 -- a hospital, nursing home, or other similar residential facility of
47 a provider of services for the care, support and treatment of
48 individuals that is licensed by the State;

1 -- a campsite, cabin, lean-to, or other similar residential facility
2 of a campground or an adult or youth camp; or

3 -- a furnished or unfurnished private residential property where
4 no maid service, room service, linen changing service or other
5 common hotel services are made available by the lessor and where
6 the keys to the furnished or unfurnished private residential property
7 are provided to the lessee at the location of an offsite real estate
8 broker.

9 Under the bill, permanent residents (i.e. any occupant of a
10 transient accommodation for at least 90 consecutive days) and
11 charitable, non-profit organizations that lease or rent transient
12 accommodations are to be treated consistent with how those
13 residents and organizations are treated for purposes of hotel room
14 occupancies under the sales and use tax. The bill provides that
15 charges of rent for providing transient accommodations to a
16 permanent resident are not subject to tax, and provides that
17 charitable, non-profit organizations (that have been granted tax
18 immunity authorization) are exempt from tax collection
19 responsibilities when providing transient accommodations in
20 furtherance of the purposes for which the entity was organized.

21 The bill permits the Director of the Division of Taxation in the
22 Department of the Treasury or the chief fiscal officer of a
23 municipality (in the case of the hotel occupancy tax) to enter into an
24 agreement with the owner or operator of a transient space
25 marketplace for the purpose of collecting the taxes, fees, and
26 assessments imposed and authorized by the bill. In doing so, the bill
27 permits the director to waive the responsibility of the person
28 engaged in the business of providing transient accommodations or
29 hotel rooms to collect and pay the taxes, fees, and assessments so
30 long as the owner or operator of the transient space marketplace
31 agrees to be personally liable for the collection and payments of
32 those taxes, fees, and assessments.

33 The bill permits the Director of the Division of Taxation in the
34 Department of the Treasury, in consultation with the Director of the
35 Division of Local Government Services in the Department of
36 Community Affairs, to adopt rules and regulations necessary to
37 effectuate the purposes of the bill, and permits the immediate filing
38 of those rules and regulations with the Office of Administrative
39 Law, effective for a period not to exceed 360 days following the
40 substitute's effective date.

41 The bill takes effect immediately upon enactment, but provides
42 for the provisions that impose, or permit municipalities to require
43 the collection of, taxes, fees, and assessments on charges for the
44 occupancy of transient accommodations to remain inoperative until
45 the first day of the first full calendar quarter beginning at least 90
46 days following the date of enactment.