

SENATE, No. 3158

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED NOVEMBER 26, 2018

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator BOB ANDRZEJCZAK

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

Senator O'Scanlon

SYNOPSIS

Makes transient accommodation taxes and fees only applicable if rented through marketplace.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/14/2019)

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

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

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

14 "Transient space marketplace" means **[an online]** a marketplace
15 through which a person may offer transient accommodations or
16 hotel rooms to individuals. A "transient space marketplace" allows
17 transient accommodations or hotel rooms to be advertised or listed
18 through **[an online]** a marketplace in exchange for consideration
19 **[or]** and provides a means for a customer to arrange for the
20 occupancy of the transient accommodation or hotel room in
21 exchange for consideration. A 'transient space marketplace' shall
22 not include **[an online]** a marketplace operated by or on behalf of a
23 hotel or hotel corporation that facilitates customer occupancy solely
24 for the hotel or hotel corporation's owned or managed hotels and
25 franchisees, and shall not include a travel agency or an online travel
26 agency.

27 (cf: P.L.2018, c.132, s.4)

28

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

31 3. As used in this act:

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

35 "Developer" means any person or entity, whether public or
36 private, including a State entity, that proposes to undertake a project
37 pursuant to a development agreement.

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

41 "Eligible municipality" means a municipality: (1) in which is
42 located part of an urban enterprise zone that has been designated
43 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any
44 supplement thereto; and (2) which has a population greater than
45 25,000 and less than 29,000 according to the latest federal decennial
46 census in a county of the third class with a population density
47 greater than 295 and less than 304 persons per square mile
48 according to the latest federal decennial census.

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

11 "Project" means a sports and entertainment facility and may
12 include infrastructure improvements that are associated with the
13 sports and entertainment facility.

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

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

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

34 "State Treasurer" or "treasurer" means the treasurer of the State
35 of New Jersey.

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

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

12 "Transient space marketplace" means **[an online]** a marketplace
13 through which a person may offer transient accommodations or
14 hotel rooms to individuals. A "transient space marketplace" allows
15 transient accommodations or hotel rooms to be advertised or listed
16 through **[an online]** a marketplace in exchange for consideration
17 **[or]** and provides a means for a customer to arrange for the
18 occupancy of the transient accommodation or hotel room in
19 exchange for consideration. A 'transient space marketplace' shall
20 not include **[an online]** a marketplace operated by or on behalf of a
21 hotel or hotel corporation that facilitates customer occupancy solely
22 for the hotel or hotel corporation's owned or managed hotels and
23 franchisees, and shall not include a travel agency or an online travel
24 agency.

25 (cf: P.L.2018, c.132, s.5)

26

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

29 2. As used in this act:

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

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

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

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

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

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

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

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

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

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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
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37 occupancy of the transient accommodation or hotel room in
38 exchange for consideration. A 'transient space marketplace' shall
39 not include **[an online]** a marketplace operated by or on behalf of a
40 hotel or hotel corporation that facilitates customer occupancy solely
41 for the hotel or hotel corporation's owned or managed hotels and
42 franchisees, and shall not include a travel agency or an online travel
43 agency.

44 (cf: P.L.2018, c.132, s.6)

45

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

48 1. As used in this act:

- 1 a. "Convention center operating authority" means, in the case
2 of any eligible municipality, the public authority or other
3 governmental entity empowered to operate convention hall and the
4 convention center facilities in the eligible municipality.
- 5 b. "Director" means the Director of the Division of Taxation in
6 the Department of the Treasury.
- 7 c. "Eligible municipality" means any municipality in which any
8 portion of the proceeds of a retail sales tax levied by ordinance
9 adopted by the municipality pursuant to section 1 of P.L.1947, c.71
10 (C.40:48-8.15) is applied as authorized by law to the payment of
11 costs of convention center facilities located in the municipality.
- 12 d. "Hotel" means a building or a portion of a building which is
13 regularly used and kept open as such for the lodging of guests.
14 "Hotel" includes an apartment hotel, a motel, inn, and rooming or
15 boarding house or club, whether or not meals are served, but does
16 not include a transient accommodation.
- 17 e. "Occupied room" means a room or rooms of any kind in any
18 part of a hotel or transient accommodation, other than a place of
19 assembly, which is used or possessed by a guest or guests, whether
20 or not for consideration.
- 21 f. "Residence" means a house, condominium, or other
22 residential dwelling unit in a building or structure or part of a
23 building or structure that is designed, constructed, leased, rented, let
24 or hired out, or otherwise made available for use as a residence.
- 25 g. "Transient accommodation" means a room, group of rooms,
26 or other living or sleeping space for the lodging of occupants, if
27 obtained through a transient space marketplace, including but not
28 limited to residences or buildings used as residences. "Transient
29 accommodation" does not include: a hotel or hotel room; a room,
30 group of rooms, or other living or sleeping space used as a place of
31 assembly; a dormitory or other similar residential facility of an
32 elementary or secondary school or a college or university; a
33 hospital, nursing home, or other similar residential facility of a
34 provider of services for the care, support and treatment of
35 individuals that is licensed by the State; a campsite, cabin, lean-to,
36 or other similar residential facility of a campground or an adult or
37 youth camp; a furnished or unfurnished private residential property,
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39 family homes and similar living units, where no maid service, room
40 service, linen changing service or other common hotel services are
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44 ingress to the furnished or unfurnished private residential property,
45 are provided to the lessee at the location of an offsite real estate
46 broker licensed by the New Jersey Real Estate Commission
47 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
48 term of at least 90 consecutive days.

1 h. "Transient space marketplace" means **【an online】** a
2 marketplace through which a person may offer transient
3 accommodations or hotel rooms to individuals. A "transient space
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5 advertised or listed through **【an online】** a marketplace in exchange
6 for consideration **【or】** and provides a means for a customer to
7 arrange for the occupancy of the transient accommodation or hotel
8 room in exchange for consideration. A 'transient space marketplace'
9 shall not include **【an online】** a marketplace operated by or on
10 behalf of a hotel or hotel corporation that facilitates customer
11 occupancy solely for the hotel or hotel corporation's owned or
12 managed hotels and franchisees, and shall not include a travel
13 agency or an online travel agency.
14 (cf: P.L.2018, c.132, s.7)

15
16 5. Section 2 of P.L.1981, c.77 (C.40:48E-2) is amended to read
17 as follows:

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

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

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28 other living or sleeping space for the lodging of occupants, if
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30 limited to residences or buildings used as residences. "Transient
31 accommodation" does not include: a hotel or hotel room; a room,
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37 individuals that is licensed by the State; a campsite, cabin, lean-to,
38 or other similar residential facility of a campground or an adult or
39 youth camp; a furnished or unfurnished private residential property,
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46 ingress to the furnished or unfurnished private residential property,
47 are provided to the lessee at the location of an offsite real estate
48 broker licensed by the New Jersey Real Estate Commission

1 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
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11 not include **[an online]** a marketplace operated by or on behalf of a
12 hotel or hotel corporation that facilitates customer occupancy solely
13 for the hotel or hotel corporation's owned or managed hotels and
14 franchisees, and shall not include a travel agency or an online travel
15 agency.

16 (cf: P.L.2018, c.132, s.8)

17

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

20 3. As used in this act:

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

24 "Beach operation offset payment " means a payment made by an
25 authority to municipalities in its district for tourism development
26 activities related to operating and maintaining public beaches within
27 a zone to seaward of a line of demarcation located not more than
28 1,000 feet from the mean high water line.

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

31 "Commissioner" means the Commissioner of the Department of
32 Commerce and Economic Development.

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

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

47 "Tourism project" means the convention center facility or
48 outdoor special events arena, or both, located in the territorial limits

1 of the district, and any costs associated therewith but does not mean
2 the Wildwood convention center facility as defined in this section.

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

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

14 "Director" means the Director of the Division of Taxation in the
15 Department of the Treasury.

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

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

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

31 "Predominantly tourism related retail receipts" means:

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

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

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

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

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

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

12 "Tourism" means activities involved in providing and marketing
13 services and products, including accommodations, for nonresidents
14 and residents who travel to and in New Jersey for recreation and
15 pleasure.

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

21 "Tourism development activities" include operations of the
22 authority to carry out its statutory duty to promote, advertise and
23 market the district, including making beach operation offset
24 payments.

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

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

35 "Tourist industry" means the industry consisting of private and
36 public organizations which directly or indirectly provide services
37 and products to nonresidents and residents who travel to and in New
38 Jersey for recreation and pleasure.

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

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

1 accommodation" does not include: a hotel or hotel room; a room,
2 group of rooms, or other living or sleeping space used as a place of
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16 ingress to the furnished or unfurnished private residential property,
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19 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
20 term of at least 90 consecutive days.

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30 hotel or hotel corporation that facilitates customer occupancy solely
31 for the hotel or hotel corporation's owned or managed hotels and
32 franchisees, and shall not include a travel agency or an online travel
33 agency.

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

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

40 (cf: P.L.2018, c.132, s.9)

41
42 7. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read
43 as follows:

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

46 (a) "Person" includes an individual, trust, partnership, limited
47 partnership, limited liability company, society, association, joint
48 stock company, corporation, public corporation or public authority,

1 estate, receiver, trustee, assignee, referee, fiduciary and any other
2 legal entity.

3 (b) "Purchase at retail" means a purchase by any person at a
4 retail sale.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (1) The term "seller" includes:

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

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

44 (C) A person who solicits business either by employees,
45 independent contractors, agents or other representatives or by
46 distribution of catalogs or other advertising matter and by reason
47 thereof makes sales to persons within the State of tangible personal

1 property, specified digital products or services, the use of which is
2 taxed by this act.

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

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

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

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

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

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

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

47 (J) A person making sales, leases, or rentals of tangible personal
48 property, specified digital products, or taxable services who meets

1 the criteria set forth in paragraph (1) or (2) of section 1 of P.L.2018,
2 c.132 (C.54:32B-3.5); and

3 (K) A marketplace facilitator.

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

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

35 (A) The name of the person who provided the transient
36 accommodation or hotel room;

37 (B) The name of the customer who procured occupancy of the
38 transient accommodation or hotel room;

39 (C) The address, including any unit designation, of the transient
40 accommodation or hotel room;

41 (D) The dates and nightly rates for which the consumer procured
42 occupancy of the transient accommodation or hotel room;

43 (E) The municipal transient accommodation registration number,
44 if applicable;

45 (F) A statement as to whether such booking services will be
46 provided in connection with (i) short-term rental of the entirety of
47 such unit, (ii) short-term rental of part of such unit, but not the
48 entirety of such unit, and/or (iii) short-term rental of the entirety of

1 such unit, or part thereof, in which a non-short-term occupant will
2 continue to occupy such unit for the duration of such short-term
3 rental;

4 (G) The individualized name or number of each such
5 advertisement or listing connected to such unit and the uniform
6 resource locator (URL) for each such listing or advertisement,
7 where applicable; and

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

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

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

17 (k) "Occupancy" means the use or possession or the right to the
18 use or possession, of any room in a hotel or transient
19 accommodation.

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

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

28 (n) "Room" means any room or rooms of any kind in any part or
29 portion of a hotel or transient accommodation, which is available
30 for or let out for any purpose other than a place of assembly.

31 (o) "Admission charge" means the amount paid for admission,
32 including any service charge and any charge for entertainment or
33 amusement or for the use of facilities therefor.

34 (p) "Amusement charge" means any admission charge, dues or
35 charge of a roof garden, cabaret or other similar place.

36 (q) "Charge of a roof garden, cabaret or other similar place"
37 means any charge made for admission, refreshment, service, or
38 merchandise at a roof garden, cabaret or other similar place.

39 (r) "Dramatic or musical arts admission charge" means any
40 admission charge paid for admission to a theater, opera house,
41 concert hall or other hall or place of assembly for a live, dramatic,
42 choreographic or musical performance.

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

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

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

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

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

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

36 (y) "Property and services the use of which is subject to tax"
37 includes: (1) all property sold to a person within the State, whether
38 or not the sale is made within the State, the use of which property is
39 subject to tax under section 6 or will become subject to tax when
40 such property is received by or comes into the possession or control
41 of such person within the State; (2) all services rendered to a person
42 within the State, whether or not such services are performed within
43 the State, upon tangible personal property or a specified digital
44 product the use of which is subject to tax under section 6 or will
45 become subject to tax when such property or product is distributed
46 within the State or is received by or comes into possession or
47 control of such person within the State; (3) intrastate, interstate, or
48 international telecommunications sourced to this State pursuant to

1 section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by
2 amendment, P.L.1995, c.184); (5) energy sold, exchanged or
3 delivered in this State for use in this State; (6) utility service sold,
4 exchanged or delivered in this State for use in this State; (7) mail
5 processing services in connection with printed advertising material
6 distributed in this State; (8) (Deleted by amendment, P.L.2005,
7 c.126); and (9) services the benefit of which are received in this
8 State.

9 (z) "Director" means the Director of the Division of Taxation in
10 the State Department of the Treasury, or any officer, employee or
11 agency of the Division of Taxation in the Department of the
12 Treasury duly authorized by the director (directly, or indirectly by
13 one or more redelegations of authority) to perform the functions
14 mentioned or described in this act.

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

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

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

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

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

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

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

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

45 (cc) "Telecommunications service" means the electronic
46 transmission, conveyance, or routing of voice, data, audio, video, or
47 any other information or signals to a point, or between or among
48 points.

1 "Telecommunications service" shall include such transmission,
2 conveyance, or routing in which computer processing applications
3 are used to act on the form, code, or protocol of the content for
4 purposes of transmission, conveyance, or routing without regard to
5 whether such service is referred to as voice over Internet protocol
6 services or is classified by the Federal Communications
7 Commission as enhanced or value added.

8 "Telecommunications service" shall not include:

- 9 (1) (Deleted by amendment, P.L.2008, c.123);
- 10 (2) (Deleted by amendment, P.L.2008, c.123);
- 11 (3) (Deleted by amendment, P.L.2008, c.123);
- 12 (4) (Deleted by amendment, P.L.2008, c.123);
- 13 (5) (Deleted by amendment, P.L.2008, c.123);
- 14 (6) (Deleted by amendment, P.L.2008, c.123);
- 15 (7) data processing and information services that allow data to
16 be generated, acquired, stored, processed, or retrieved and delivered
17 by an electronic transmission to a purchaser where such purchaser's
18 primary purpose for the underlying transaction is the processed data
19 or information;
- 20 (8) installation or maintenance of wiring or equipment on a
21 customer's premises;
- 22 (9) tangible personal property;
- 23 (10) advertising, including but not limited to directory
24 advertising;
- 25 (11) billing and collection services provided to third parties;
- 26 (12) internet access service;
- 27 (13) radio and television audio and video programming services,
28 regardless of the medium, including the furnishing of transmission,
29 conveyance, and routing of such services by the programming
30 service provider. Radio and television audio and video
31 programming services shall include but not be limited to cable
32 service as defined in section 47 U.S.C. s.522(6) and audio and video
33 programming services delivered by commercial mobile radio
34 service providers, as defined in section 47 C.F.R. 20.3;
- 35 (14) ancillary services; or
- 36 (15) digital products delivered electronically, including but not
37 limited to software, music, video, reading materials, or ringtones.

38 For the purposes of this subsection:

39 "ancillary service" means a service that is associated with or
40 incidental to the provision of telecommunications services,
41 including but not limited to detailed telecommunications billing,
42 directory assistance, vertical service, and voice mail service;
43 "conference bridging service" means an ancillary service that links
44 two or more participants of an audio or video conference call and
45 may include the provision of a telephone number. Conference
46 bridging service does not include the telecommunications services
47 used to reach the conference bridge;

1 "detailed telecommunications billing service" means an ancillary
2 service of separately stating information pertaining to individual
3 calls on a customer's billing statement;

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

6 "vertical service" means an ancillary service that is offered in
7 connection with one or more telecommunications services, which
8 offers advanced calling features that allow customers to identify
9 callers and to manage multiple calls and call connections, including
10 conference bridging services; and

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

15 (dd) (1) "Intrastate telecommunications" means a
16 telecommunications service that originates in one United States
17 state or a United States territory or possession or federal district,
18 and terminates in the same United States state or United States
19 territory or possession or federal district.

20 (2) "Interstate telecommunications" means a
21 telecommunications service that originates in one United States
22 state or a United States territory or possession or federal district,
23 and terminates in a different United States state or United States
24 territory or possession or federal district.

25 (3) "International telecommunications" means a
26 telecommunications service that originates or terminates in the
27 United States and terminates or originates outside the United States,
28 respectively. "United States" includes the District of Columbia or a
29 United States territory or possession.

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

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

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

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

37 (ii) "Self-generation unit" means a facility located on the user's
38 property, or on property purchased or leased from the user by the
39 person owning the self-generation unit and such property is
40 contiguous to the user's property, which generates electricity to be
41 used only by that user on the user's property and is not transported
42 to the user over wires that cross a property line or public
43 thoroughfare unless the property line or public thoroughfare merely
44 bifurcates the user's or self-generation unit owner's otherwise
45 contiguous property.

46 (jj) "Co-generation facility" means a facility the primary
47 purpose of which is the sequential production of electricity and
48 steam or other forms of useful energy which are used for industrial

1 or commercial heating or cooling purposes and which is designated
2 by the Federal Energy Regulatory Commission, or its successor, as
3 a "qualifying facility" pursuant to the provisions of the "Public
4 Utility Regulatory Policies Act of 1978," Pub.L.95-617.

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

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

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

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

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

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

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

28 (C) Charges by the seller for any services necessary to complete
29 the sale;

30 (D) Delivery charges;

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

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

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

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

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

41 (C) Any taxes legally imposed directly on the consumer that are
42 separately stated on the invoice, bill of sale, or similar document
43 given to the purchaser;

44 (D) The amount of sales price for which food stamps have been
45 properly tendered in full or part payment pursuant to the federal
46 Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or

47 (E) Credit for any trade-in of property of the same kind accepted
48 in part payment and intended for resale if the amount is separately

1 stated on the invoice, bill of sale, or similar document given to the
2 purchaser.

3 (3) "Sales price" includes consideration received by the seller
4 from third parties if:

5 (A) The seller actually receives consideration from a party other
6 than the purchaser and the consideration is directly related to a price
7 reduction or discount on the sale;

8 (B) The seller has an obligation to pass the price reduction or
9 discount through to the purchaser;

10 (C) The amount of the consideration attributable to the sale is
11 fixed and determinable by the seller at the time of the sale of the
12 item to the purchaser; and

13 (D) One of the following criteria is met:

14 (i) the purchaser presents a coupon, certificate, or other
15 documentation to the seller to claim a price reduction or discount
16 where the coupon, certificate, or documentation is authorized,
17 distributed, or granted by a third party with the understanding that
18 the third party will reimburse any seller to whom the coupon,
19 certificate, or documentation is presented;

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

24 (iii) the price reduction or discount is identified as a third party
25 price reduction or discount on the invoice received by the purchaser
26 or on a coupon, certificate, or other documentation presented by the
27 purchaser.

28 (4) In the case of a bundled transaction that includes a
29 telecommunications service, an ancillary service, internet access, or
30 an audio or video programming service, if the price is attributable to
31 products that are taxable and products that are nontaxable, the
32 portion of the price attributable to the nontaxable products is
33 subject to tax unless the provider can identify by reasonable and
34 verifiable standards such portion from its books and records that are
35 kept in the regular course of business for other purposes, including
36 non-tax purposes.

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

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

42 (rr) "Delivery charges" means charges by the seller for
43 preparation and delivery to a location designated by the purchaser
44 of personal property or services including, but not limited to,
45 transportation, shipping, postage, handling, crating, and packing. If
46 a shipment includes both exempt and taxable property, the seller
47 should allocate the delivery charge by using: (1) a percentage based
48 on the total sales price of the taxable property compared to the total

1 sales price of all property in the shipment; or (2) a percentage based
2 on the total weight of the taxable property compared to the total
3 weight of all property in the shipment. The seller shall tax the
4 percentage of the delivery charge allocated to the taxable property
5 but is not required to tax the percentage allocated to the exempt
6 property.

7 (ss) "Direct mail" means printed material delivered or distributed
8 by United States mail or other delivery service to a mass audience
9 or to addresses on a mailing list provided by the purchaser or at the
10 direction of the purchaser in cases in which the cost of the items are
11 not billed directly to the recipients. "Direct mail" includes tangible
12 personal property supplied directly or indirectly by the purchaser to
13 the direct mail seller for inclusion in the package containing the
14 printed material. "Direct mail" does not include multiple items of
15 printed material delivered to a single address.

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

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

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

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

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

30 (1) investigation and detective services, including detective
31 agencies and private investigators, and fingerprint, polygraph,
32 missing person tracing and skip tracing services;

33 (2) security guard and patrol services, including bodyguard and
34 personal protection, guard dog, guard, patrol, and security services;

35 (3) armored car services; and

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

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

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

- 1 (aaa) "Digital audio-visual work" means a series of related
2 images which, when shown in succession, impart an impression of
3 motion, together with accompanying sounds, if any.
- 4 (bbb) "Digital audio work" means a work that results from the
5 fixation of a series of musical, spoken, or other sounds, including a
6 ringtone.
- 7 (ccc) "Digital book" means a work that is generally recognized in
8 the ordinary and usual sense as a book.
- 9 (ddd) "Transferred electronically" means obtained by the
10 purchaser by means other than tangible storage media.
- 11 (eee) "Ringtone" means a digitized sound file that is downloaded
12 onto a device and that may be used to alert the purchaser with
13 respect to a communication.
- 14 (fff) "Residence" means a house, condominium, or other
15 residential dwelling unit in a building or structure or part of a
16 building or structure that is designed, constructed, leased, rented, let
17 or hired out, or otherwise made available for use as a residence.
- 18 (ggg) "Transient accommodation" means a room, group of
19 rooms, or other living or sleeping space for the lodging of
20 occupants, if obtained through a transient space marketplace,
21 including but not limited to residences or buildings used as
22 residences. "Transient accommodation" does not include: a hotel or
23 hotel room; a room, group of rooms, or other living or sleeping
24 space used as a place of assembly; a dormitory or other similar
25 residential facility of an elementary or secondary school or a
26 college or university; a hospital, nursing home, or other similar
27 residential facility of a provider of services for the care, support and
28 treatment of individuals that is licensed by the State; a campsite,
29 cabin, lean-to, or other similar residential facility of a campground
30 or an adult or youth camp; a furnished or unfurnished private
31 residential property, including but not limited to condominiums,
32 bungalows, single-family homes and similar living units, where no
33 maid service, room service, linen changing service or other
34 common hotel services are made available by the lessor and where
35 the keys to the furnished or unfurnished private residential property,
36 whether a physical key, access to a keyless locking mechanism, or
37 other means of physical ingress to the furnished or unfurnished
38 private residential property, are provided to the lessee at the
39 location of an offsite real estate broker licensed by the New Jersey
40 Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases
41 of real property with a term of at least 90 consecutive days.
- 42 (hhh) "Transient space marketplace" means **【an online】** a
43 marketplace through which a person may offer transient
44 accommodations or hotel rooms to individuals. A "transient space
45 marketplace" allows transient accommodations or hotel rooms to be
46 advertised or listed through **【an online】** a marketplace in exchange
47 for consideration **【or】** and provides a means for a customer to
48 arrange for the occupancy of the transient accommodation or hotel

1 room in exchange for consideration. A 'transient space marketplace'
2 shall not include **[an online]** a marketplace operated by or on
3 behalf of a hotel or hotel corporation that facilitates customer
4 occupancy solely for the hotel or hotel corporation's owned or
5 managed hotels and franchisees, and shall not include a travel
6 agency or an online travel agency.
7 (cf: P.L.2018, c.132, s.3)

8
9 8. This act shall take effect immediately.

10
11
12 STATEMENT

13
14 This bill amends the definition of “transient accommodation”
15 and “transient space marketplace” as they relate to the transient
16 accommodation rental taxes imposed by P.L.2018, c.49.

17 Pursuant to this bill, a transient accommodation rental will only
18 be subject to taxes if the rental is obtained through a marketplace. A
19 marketplace, online or otherwise, allows accommodations to be
20 listed and provides a means for arranging the rental of the
21 accommodation.

22 The marketplaces are required to collect and remit the taxes on
23 rentals on behalf of accommodation owners. No one else is required
24 to collect and remit the taxes, as accommodations not obtained
25 through a marketplace are not subject to taxes under the bill.