

SENATE, No. 3715

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 6, 2021

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

SYNOPSIS

Modifies certain definitions related to transient accommodation taxes and fees.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/10/2022)

S3715 CRYAN

2

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

3

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

6

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

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

38

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

41 3. As used in this act:

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

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

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

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

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

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

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

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

39 "Project cost" means the cost of a project, including the
40 financing, acquisition, development, construction, redevelopment,
41 rehabilitation, reconstruction and improvement costs thereof,
42 financing costs and the administrative costs, including any
43 administrative costs of the authority if bonds are issued pursuant to
44 section 16 of P.L.2007, c.30 (C.34:1B-205) and incurred in
45 connection with a sports and entertainment facility which is
46 financed, in whole or in part, by the revenues dedicated by a
47 municipality to a project as authorized pursuant to section 5 of
48 P.L.2007, c.30 (C.34:1B-194).

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

11 "State Treasurer" or "treasurer" means the treasurer of the State
12 of New Jersey.

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

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

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

46

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

1 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25

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

28 1. As used in this act:

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

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

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

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

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

1 the payment, and where the contracting for the accommodation is
2 made through the marketplace or travel agency] regardless of
3 whether payment for the accommodation is made through a means
4 provided by the marketplace or travel agency.

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

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

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

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

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

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

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

5

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

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

13 "Obtained through a transient space marketplace" means **[that**
14 **payment for]** the accommodation is **[made]** accepted through a
15 means provided by the marketplace or travel agency, **[either**
16 **directly or indirectly, regardless of which person or entity receives**
17 **the payment, and where the contracting for the accommodation is**
18 **made through the marketplace or travel agency]** regardless of
19 whether payment for the accommodation is made through a means
20 provided by the marketplace or travel agency.

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

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

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

7 "Transient space marketplace" means a marketplace or travel
8 agency **【through which a person may】** that, in exchange for a fee,
9 allows a person to offer transient accommodations to customers and
10 through which customers may arrange for occupancies of transient
11 accommodations. "Transient space marketplace" does not include a
12 marketplace or travel agency that exclusively offers transient
13 accommodations in the State owned by the owner of the
14 marketplace or travel agency.

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

16

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

19 3. As used in this act:

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

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

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

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

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

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

46 "Tourism project" means the convention center facility or
47 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 "Obtained through a transient space marketplace" means [that
2 payment for] the accommodation is [made] accepted through a
3 means provided by the marketplace or travel agency, [either
4 directly or indirectly, regardless of which person or entity receives
5 the payment, and where the contracting for the accommodation is
6 made through the marketplace or travel agency] regardless of
7 whether payment for the accommodation is made through a means
8 provided by the marketplace or travel agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 "Wildwood convention center facility" means the project

1 authorized by paragraph (12) of subsection a. of section 6 of
2 P.L.1971, c.137 (C.5:10-6).

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

4

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

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

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

14 (b) "Purchase at retail" means a purchase by any person at a
15 retail sale.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (1) The term "seller" includes:

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

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

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

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

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

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

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

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

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

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

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

14 (K) A marketplace facilitator.

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

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

45 (A) The name of the person who provided the transient
46 accommodation;

47 (B) The name of the customer who procured occupancy of the
48 transient accommodation;

1 (C) The address, including any unit designation, of the transient
2 accommodation;

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

5 (E) The municipal transient accommodation registration number,
6 if applicable;

7 (F) A statement as to whether such booking services will be
8 provided in connection with (i) short-term rental of the entirety of
9 such unit, (ii) short-term rental of part of such unit, but not the
10 entirety of such unit, and/or (iii) short-term rental of the entirety of
11 such unit, or part thereof, in which a non-short-term occupant will
12 continue to occupy such unit for the duration of such short-term
13 rental;

14 (G) The individualized name or number of each such
15 advertisement or listing connected to such unit and the uniform
16 resource locator (URL) for each such listing or advertisement,
17 where applicable; and

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

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

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

27 (k) "Occupancy" means the use or possession or the right to the
28 use or possession, of any room in a hotel or transient
29 accommodation.

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

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

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

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

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

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

1 (r) "Dramatic or musical arts admission charge" means any
2 admission charge paid for admission to a theater, opera house,
3 concert hall or other hall or place of assembly for a live, dramatic,
4 choreographic or musical performance.

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

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

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

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

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

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

46 (y) "Property and services the use of which is subject to tax"
47 includes: (1) all property sold to a person within the State, whether
48 or not the sale is made within the State, the use of which property is

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

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

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

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

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

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

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

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

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

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

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

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

18 "Telecommunications service" shall not include:

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

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

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

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

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

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

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

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

32 (9) tangible personal property;

33 (10) advertising, including but not limited to directory
34 advertising;

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

36 (12) internet access service;

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

45 (14) ancillary services; or

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

48 For the purposes of this subsection:

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

10 "detailed telecommunications billing service" means an ancillary
11 service of separately stating information pertaining to individual
12 calls on a customer's billing statement;

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

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

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

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

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

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

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

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

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

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

46 (ii) "Self-generation unit" means a facility located on the user's
47 property, or on property purchased or leased from the user by the
48 person owning the self-generation unit and such property is

1 contiguous to the user's property, which generates electricity to be
2 used only by that user on the user's property and is not transported
3 to the user over wires that cross a property line or public
4 thoroughfare unless the property line or public thoroughfare merely
5 bifurcates the user's or self-generation unit owner's otherwise
6 contiguous property.

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

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

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

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

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

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

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

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

37 (C) Charges by the seller for any services necessary to complete
38 the sale;

39 (D) Delivery charges;

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

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

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

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

46 (B) Interest, financing, and carrying charges from credit
47 extended on the sale of personal property or services, if the amount

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

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

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

9 (E) Credit for any trade-in of property of the same kind accepted
10 in part payment and intended for resale if the amount is separately
11 stated on the invoice, bill of sale, or similar document given to the
12 purchaser.

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

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

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

20 (C) The amount of the consideration attributable to the sale is
21 fixed and determinable by the seller at the time of the sale of the
22 item to the purchaser; and

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

24 (i) the purchaser presents a coupon, certificate, or other
25 documentation to the seller to claim a price reduction or discount
26 where the coupon, certificate, or documentation is authorized,
27 distributed, or granted by a third party with the understanding that
28 the third party will reimburse any seller to whom the coupon,
29 certificate, or documentation is presented;

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

34 (iii) the price reduction or discount is identified as a third party
35 price reduction or discount on the invoice received by the purchaser
36 or on a coupon, certificate, or other documentation presented by the
37 purchaser.

38 (4) In the case of a bundled transaction that includes a
39 telecommunications service, an ancillary service, internet access, or
40 an audio or video programming service, if the price is attributable to
41 products that are taxable and products that are nontaxable, the
42 portion of the price attributable to the nontaxable products is
43 subject to tax unless the provider can identify by reasonable and
44 verifiable standards such portion from its books and records that are
45 kept in the regular course of business for other purposes, including
46 non-tax purposes.

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

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

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

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

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

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

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

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

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

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

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

46 (3) armored car services; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28

29 8. This act shall take effect immediately.

30

31

32

STATEMENT

33

34 The bill modifies certain definitions that are applicable to the
35 State's transient accommodation taxes and fees. Specifically, the
36 bill alters the definitions of "obtained through a transient
37 marketplace" and "transient space marketplace."

38 Under current law, "obtained through a transient space
39 marketplace" means that payment for the accommodation is made
40 through a means provided by the marketplace or travel agency,
41 either directly or indirectly, regardless of which person or entity
42 receives the payment, and where the contracting for the
43 accommodation is made through the marketplace or travel agency.
44 The bill changes this definition to specify that the accommodation
45 is accepted through a means provided by the marketplace or travel
46 agency, regardless of whether payment for the accommodation is
47 made through a means provide by the marketplace or travel agency.

1 Further, the bill modifies the definition of “transient space
2 marketplace.” Under current law, a transient space marketplace
3 means a marketplace or travel agency through which a person may
4 offer transient accommodations to customers and through which
5 customers may arrange for occupancies of transient
6 accommodations. The bill changes the definition to specify that a
7 marketplace or travel agency provides the service in exchange for a
8 fee.