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P.L. 2018, CHAPTER 49, *approved July 1, 2018*  
Assembly, No. 1753 (*Second Reprint*)

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

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

9  
10 1. Section 84 of P.L.2015, c.19 (C.5:10A-84) is amended to  
11 read as follows:

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

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

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

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

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

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

33 "Transient accommodation" means a room, group of rooms, or  
34 other living or sleeping space for the lodging of occupants,  
35 including but not limited to residences or buildings used as  
36 residences. "Transient accommodation" does not include: a hotel or  
37 hotel room; a room, group of rooms, or other living or sleeping  
38 space used as a place of assembly; a dormitory or other similar  
39 residential facility of an elementary or secondary school or a

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ABU committee amendments adopted June 18, 2018.

<sup>2</sup>Senate floor amendments adopted June 25, 2018.

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

17 “Transient space marketplace” means an online marketplace  
18 through which a person may offer transient accommodations or  
19 hotel rooms to individuals. A “transient space marketplace” allows  
20 transient accommodations or hotel rooms to be advertised or listed  
21 through an online marketplace <sup>1</sup>**[and]** in exchange for consideration  
22 or<sup>1</sup> provides a means for a customer to arrange for the occupancy of  
23 the transient accommodation or hotel room in exchange for  
24 consideration <sup>1</sup>**[directly through the online marketplace].** A  
25 ‘transient space marketplace’ shall not include an online  
26 marketplace operated by or on behalf of a hotel or hotel corporation  
27 that facilitates customer occupancy solely for the hotel or hotel  
28 corporation’s owned or managed hotels and franchisees.<sup>1</sup>

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

30

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

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

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

8 Each person required to collect the assessment shall be  
9 personally liable for the assessment imposed, collected, or required  
10 to be paid, collected, or remitted under this section. Any such  
11 person shall have the same right in respect to collecting the fee from  
12 that person's customer or in respect to non-payment of the fee by  
13 the customer as if the fee were a part of the purchase price of the  
14 occupancy or rent, as the case may be, and payable at the same  
15 time; provided, however, that the director shall be joined as a party  
16 in any action or proceeding brought to collect the fee.

17 <sup>1</sup>[Notwithstanding any other provision of this section to the  
18 contrary, the director may enter into an agreement with the owner  
19 or operator of a transient space marketplace for the purpose of  
20 collection and payment of the tax for transactions solely  
21 consummated through the transient space marketplace. Upon  
22 entering an agreement with the owner or operator of a transient  
23 space marketplace, the director may waive the responsibility of a  
24 person engaged in the business of providing transient  
25 accommodations or hotel rooms to collect and pay the tax. The  
26 owner or operator of the transient space marketplace shall agree to  
27 be personally liable for the collection and payment of the tax on  
28 behalf of a person engaged in the business of providing transient  
29 accommodations or hotel rooms.]

30 Notwithstanding any other provision of law or administrative  
31 action to the contrary, transient space marketplaces shall be  
32 required to collect and pay on behalf of persons engaged in the  
33 business of providing transient accommodations or hotel rooms  
34 located in this State the tax for transactions solely consummated  
35 through the transient space marketplace. For not less than <sup>2</sup>[three]  
36 four<sup>2</sup> years following the end of the calendar year in which the  
37 transaction occurred, the transient space marketplace shall maintain  
38 <sup>2</sup>[and provide, on a quarterly basis, the Division of Taxation with]<sup>2</sup>  
39 the following data for those transactions consummated through the  
40 transient space marketplace:

41 (1) The name of the person who provided the transient  
42 accommodation or hotel room;

43 (2) The name of the customer who procured occupancy of the  
44 transient accommodation or hotel room;

45 (3) The address, including any unit designation, of the transient  
46 accommodation or hotel room;

47 (4) The dates and nightly rates for which the consumer procured  
48 occupancy of the transient accommodation or hotel room;

1       (5) The municipal transient accommodation registration number,  
2 if applicable;

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

10       (7) The individualized name or number of each such  
11 advertisement or listing connected to such unit and the uniform  
12 resource locator (URL) for each such listing or advertisement,  
13 where applicable; and

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

16 The Division of Taxation <sup>2</sup>~~shall~~ may<sup>2</sup> audit transient space  
17 marketplaces as necessary to ensure data accuracy and enforce tax  
18 compliance.<sup>1</sup>

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

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

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

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

46       e. In the event that in any year, after the required meadowlands  
47 adjustment payments have been made to municipalities in the  
48 Meadowlands district, assessment revenue remains in the

1 intermunicipal account, that remaining assessment revenue may be  
2 used in that year for the following purposes:

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

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

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

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

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

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

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

36 3. As used in this act:

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

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

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

46 "Eligible municipality" means a municipality: (1) in which is  
47 located part of an urban enterprise zone that has been designated  
48 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any

1 supplement thereto; and (2) which has a population greater than  
2 25,000 and less than 29,000 according to the latest federal decennial  
3 census in a county of the third class with a population density  
4 greater than 295 and less than 304 persons per square mile  
5 according to the latest federal decennial census.

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

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

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

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

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

39 "State Treasurer" or "treasurer" means the treasurer of the State  
40 of New Jersey.

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



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

16 “Transient space marketplace” means an online marketplace  
 17 through which a person may offer transient accommodations or  
 18 hotel rooms to individuals. A “transient space marketplace” allows  
 19 transient accommodations or hotel rooms to be advertised or listed  
 20 through an online marketplace <sup>1</sup>[and] in exchange for consideration  
 21 or<sup>1</sup> provides a means for a customer to arrange for the occupancy of  
 22 the transient accommodation or hotel room in exchange for  
 23 consideration <sup>1</sup>[directly through the online marketplace]. A  
 24 ‘transient space marketplace’ shall not include an online  
 25 marketplace operated by or on behalf of a hotel or hotel corporation  
 26 that facilitates customer occupancy solely for the hotel or hotel  
 27 corporation’s owned or managed hotels and franchisees.<sup>1</sup>

28 (cf: P.L.2017, c.30, s.3)

29

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

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

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

44 (1) a tax at the rate of 2% on the receipts from every sale within  
 45 the district of tangible personal property subject to taxation  
 46 pursuant to subsection (a) of section 3 of P.L.1966, c.30 (C.54:32B-  
 47 3);

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

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

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

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

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

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

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

38  
39 5. Section 7 of P.L.2007, c.30 (C.34:1B-196) is amended to  
40 read as follows:

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

46 b. Each person required to collect a tax imposed by the  
47 ordinance shall be personally liable for the tax imposed, collected  
48 or required to be collected hereunder. Any such person shall have

1 the same right in respect to collecting the tax from a customer as if  
2 the tax were a part of the rent and payable at the same time;  
3 provided, however, that the chief fiscal officer of the municipality  
4 shall be joined as a party in any action or proceeding brought to  
5 collect the tax.

6 c. <sup>1</sup>Notwithstanding any other provision of this section to the  
7 contrary, the Director of the Division of Taxation in the Department  
8 of the Treasury may enter into an agreement with the owner or  
9 operator of a transient space marketplace for the purpose of  
10 collection and payment of the tax for transactions solely  
11 consummated through the transient space marketplace. Upon  
12 entering an agreement with the owner or operator of a transient  
13 space marketplace, the director may waive the responsibility of a  
14 person engaged in the business of providing transient  
15 accommodations or hotel rooms to collect and pay the tax. The  
16 owner or operator of the transient space marketplace shall agree to  
17 be personally liable for the collection and payment of the tax on  
18 behalf of a person engaged in the business of providing transient  
19 accommodations or hotel rooms.】

20 Notwithstanding any other provision of law or administrative  
21 action to the contrary, transient space marketplaces shall be  
22 required to collect and pay on behalf of persons engaged in the  
23 business of providing transient accommodations or hotel rooms  
24 located in this State the tax for transactions solely consummated  
25 through the transient space marketplace. For not less than <sup>2</sup>three  
26 four<sup>2</sup> years following the end of the calendar year in which the  
27 transaction occurred, the transient space marketplace shall maintain  
28 <sup>2</sup>and provide, on a quarterly basis, the Division of Taxation with】<sup>2</sup>  
29 the following data for those transactions consummated through the  
30 transient space marketplace:

31 (1) The name of the person who provided the transient  
32 accommodation or hotel room;

33 (2) The name of the customer who procured occupancy of the  
34 transient accommodation or hotel room;

35 (3) The address, including any unit designation, of the transient  
36 accommodation or hotel room;

37 (4) The dates and nightly rates for which the consumer procured  
38 occupancy of the transient accommodation or hotel room;

39 (5) The municipal transient accommodation registration number,  
40 if applicable;

41 (6) A statement as to whether such booking services will be  
42 provided in connection with (i) short-term rental of the entirety of  
43 such unit, (ii) short-term rental of part of such unit, but not the  
44 entirety of such unit, and/or (iii) short-term rental of the entirety of  
45 such unit, or part thereof, in which a non-short-term occupant will  
46 continue to occupy such unit for the duration of such short-term  
47 rental;

48 (7) The individualized name or number of each such  
49 advertisement or listing connected to such unit and the uniform

1 resource locator (URL) for each such listing or advertisement,  
2 where applicable; and

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

5 The Division of Taxation <sup>2</sup>~~shall~~ may<sup>2</sup> audit transient space  
6 marketplaces as necessary to ensure data accuracy and enforce tax  
7 compliance.<sup>1</sup>

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

9

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

12 2. As used in this act:

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

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

17 (2) Any cover charge, minimum charge, entertainment, or other  
18 similar charge made to any patron of any restaurant, cafe, bar, hotel  
19 or other similar establishment;

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

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

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

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

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

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

37 "Transient accommodation" means a room, group of rooms, or  
38 other living or sleeping space for the lodging of occupants,  
39 including but not limited to residences or buildings used as  
40 residences. "Transient accommodation" does not include: a hotel or  
41 hotel room; a room, group of rooms, or other living or sleeping  
42 space used as a place of assembly; a dormitory or other similar  
43 residential facility of an elementary or secondary school or a  
44 college or university; a hospital, nursing home, or other similar  
45 residential facility of a provider of services for the care, support and  
46 treatment of individuals that is licensed by the State; a campsite,  
47 cabin, lean-to, or other similar residential facility of a campground  
48 or an adult or youth camp; <sup>1</sup>~~or~~<sup>1</sup> a furnished or unfurnished private

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

12 “Transient space marketplace” means an online 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 marketplace <sup>1</sup>**[and]** in exchange for consideration  
17 or<sup>1</sup> provides a means for a customer to arrange for the occupancy of  
18 the transient accommodation or hotel room in exchange for  
19 consideration <sup>1</sup>**[directly through the online marketplace].** A  
20 ‘transient space marketplace’ shall not include an online  
21 marketplace operated by or on behalf of a hotel or hotel corporation  
22 that facilitates customer occupancy solely for the hotel or hotel  
23 corporation’s owned or managed hotels and franchisees.<sup>1</sup>

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

25

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

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

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

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

1 d. (1) Each vendor required to collect the tax imposed by a  
2 municipal ordinance which was adopted pursuant to the provisions  
3 of P.L.1947, c.71 (C.40:48-8.15 et seq.) shall be personally liable  
4 for the tax imposed, collected, or required to be paid, collected, or  
5 remitted under the ordinance. Any such vendor shall have the same  
6 right in respect to collecting the tax from that vendor's customer or  
7 in respect to non-payment of the tax by the customer as if the tax  
8 were a part of the purchase price of the property or service,  
9 amusement charge or rent, as the case may be, and payable at the  
10 same time; provided however, that the director shall be joined as a  
11 party in any action or proceeding brought to collect the tax.

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

18 e. <sup>1</sup>Notwithstanding any other provision of this section to the  
19 contrary, the director may enter into an agreement with the owner  
20 or operator of a transient space marketplace for the purpose of  
21 collection and payment of the tax imposed pursuant to the  
22 provisions of P.L.1947, c.71 (C.40:48-8.15 et seq.) for transactions  
23 solely consummated through the transient space marketplace. Upon  
24 entering an agreement with the owner or operator of a transient  
25 space marketplace, the director may waive the responsibility of a  
26 person engaged in the business of providing transient  
27 accommodations or hotel rooms to collect and pay the tax. The  
28 owner or operator of the transient space marketplace shall agree to  
29 be personally liable for the collection and payment of the tax on  
30 behalf of a person engaged in the business of providing transient  
31 accommodations or hotel rooms.]

32 Notwithstanding any other provision of law or administrative  
33 action to the contrary, transient space marketplaces shall be  
34 required to collect and pay on behalf of persons engaged in the  
35 business of providing transient accommodations or hotel rooms  
36 located in this State the tax for transactions solely consummated  
37 through the transient space marketplace. For not less than <sup>2</sup>[three]  
38 four<sup>2</sup> years following the end of the calendar year in which the  
39 transaction occurred, the transient space marketplace shall maintain  
40 <sup>2</sup>[and provide, on a quarterly basis, the Division of Taxation with]<sup>2</sup>  
41 the following data for those transactions consummated through the  
42 transient space marketplace:

43 (1) The name of the person who provided the transient  
44 accommodation or hotel room;

45 (2) The name of the customer who procured occupancy of the  
46 transient accommodation or hotel room;

47 (3) The address, including any unit designation, of the transient  
48 accommodation or hotel room;

1       (4) The dates and nightly rates for which the consumer procured  
 2 occupancy of the transient accommodation or hotel room;

3       (5) The municipal transient accommodation registration number,  
 4 if applicable;

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

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

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

18 The Division of Taxation <sup>2</sup>[shall] may<sup>2</sup> audit transient space  
 19 marketplaces as necessary to ensure data accuracy and enforce tax  
 20 compliance.<sup>1</sup>

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

22  
 23       8. Section 1 of P.L.1991, c.376 (C.40:48-8.45) is amended to  
 24 read as follows:

25       1. As used in this act:

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

30       b. "Director" means the Director of the Division of Taxation in  
 31 the Department of the Treasury.

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

37       d. "Hotel" means a building or a portion of a building which is  
 38 regularly used and kept open <sup>1</sup>as such<sup>1</sup> for the lodging of guests  
 39 <sup>1</sup>[and].<sup>1</sup> <sup>1</sup>"Hotel"<sup>1</sup> includes <sup>1</sup>[a] an apartment<sup>1</sup> hotel, <sup>1</sup>a<sup>1</sup> motel,  
 40 inn, and rooming or boarding house <sup>1</sup>or club<sup>1</sup>, whether or not meals  
 41 are served <sup>1</sup>, but does not include a transient accommodation<sup>1</sup>.

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

46       f. "Residence" means a house, condominium, or other  
 47 residential dwelling unit in a building or structure or part of a

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

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

26 h. “Transient space marketplace” means an online marketplace  
27 through which a person may offer transient accommodations or  
28 hotel rooms to individuals. A “transient space marketplace” allows  
29 transient accommodations or hotel rooms to be advertised or listed  
30 through an online marketplace <sup>1</sup>**[and]**<sup>1</sup> in exchange for consideration  
31 or<sup>1</sup> provides a means for a customer to arrange for the occupancy of  
32 the transient accommodation or hotel room in exchange for  
33 consideration <sup>1</sup>**[directly through the online marketplace].** A  
34 ‘transient space marketplace’ shall not include an online  
35 marketplace operated by or on behalf of a hotel or hotel corporation  
36 that facilitates customer occupancy solely for the hotel or hotel  
37 corporation’s owned or managed hotels and franchisees.<sup>1</sup>

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

39

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

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

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



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

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

13

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

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

30       <sup>1</sup>【The director may enter into an agreement with the owner or  
31 operator of a transient space marketplace for the purpose of  
32 collection and payment of the fee for transactions solely  
33 consummated through the transient space marketplace. Upon  
34 entering an agreement with the owner or operator of a transient  
35 space marketplace, the director may waive the responsibility of a  
36 person engaged in the business of providing transient  
37 accommodations or hotel rooms to collect and pay the fee. The  
38 owner or operator of the transient space marketplace shall agree to  
39 be personally liable for the collection and payment of the fee on  
40 behalf of a person engaged in the business of providing transient  
41 accommodations or hotel rooms.】

42       Notwithstanding any other provision of law or administrative  
43 action to the contrary, transient space marketplaces shall be  
44 required to collect and pay on behalf of persons engaged in the  
45 business of providing transient accommodations or hotel rooms  
46 located in this State the tax for transactions solely consummated  
47 through the transient space marketplace. For not less than <sup>2</sup>【three】  
48 four<sup>2</sup> years following the end of the calendar year in which the

1 transaction occurred, the transient space marketplace shall maintain  
 2 <sup>2</sup>[and provide, on a quarterly basis, the Division of Taxation with]<sup>2</sup>  
 3 the following data for those transactions consummated through the  
 4 transient space marketplace:

5 (1) The name of the person who provided the transient  
 6 accommodation or hotel room;

7 (2) The name of the customer who procured occupancy of the  
 8 transient accommodation or hotel room;

9 (3) The address, including any unit designation, of the transient  
 10 accommodation or hotel room;

11 (4) The dates and nightly rates for which the consumer procured  
 12 occupancy of the transient accommodation or hotel room;

13 (5) The municipal transient accommodation registration number,  
 14 if applicable;

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

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

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

28 The Division of Taxation <sup>2</sup>[shall] may<sup>2</sup> audit transient space  
 29 marketplaces as necessary to ensure data accuracy and enforce tax  
 30 compliance.<sup>1</sup>

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

32

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

35 2. As used in this act "hotel" means a building or portion of  
 36 <sup>1</sup>[it] a building<sup>1</sup> which is regularly used and kept open as such for  
 37 the lodging of guests <sup>1</sup>[, and].<sup>1</sup> <sup>1</sup>"Hotel"<sup>1</sup> includes an apartment  
 38 hotel, a motel, <sup>1</sup>inn, and <sup>1</sup>rooming or<sup>1</sup> boarding house or club,  
 39 whether or not meals are served <sup>1</sup>, but does not include a transient  
 40 accommodation<sup>1</sup>.

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

45 "Transient accommodation" means a room, group of rooms, or  
 46 other living or sleeping space for the lodging of occupants,  
 47 including but not limited to residences or buildings used as  
 48 residences. "Transient accommodation" does not include: a hotel or

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

20 “Transient space marketplace” means an online marketplace  
 21 through which a person may offer transient accommodations or  
 22 hotel rooms to individuals. A “transient space marketplace” allows  
 23 transient accommodations or hotel rooms to be advertised or listed  
 24 through an online marketplace <sup>1</sup>**[and]** in exchange for consideration  
 25 or<sup>1</sup> provides a means for a customer to arrange for the occupancy of  
 26 the transient accommodation or hotel room in exchange for  
 27 consideration <sup>1</sup>**[directly through the online marketplace].** A  
 28 ‘transient space marketplace’ shall not include an online  
 29 marketplace operated by or on behalf of a hotel or hotel corporation  
 30 that facilitates customer occupancy solely for the hotel or hotel  
 31 corporation’s owned or managed hotels and franchisees.<sup>1</sup>

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

33

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

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

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

44

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

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

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

12       c. <sup>1</sup>【The chief fiscal officer of a municipality may enter into an  
13 agreement with the owner or operator of a transient space  
14 marketplace for the purpose of collection and payment of the tax for  
15 transactions solely consummated through the transient space  
16 marketplace. Upon entering an agreement with the owner or  
17 operator of a transient space marketplace, the officer may waive the  
18 responsibility of a person engaged in the business of providing  
19 transient accommodations or hotel rooms to collect and pay the tax.  
20 The owner or operator of the transient space marketplace shall  
21 agree to be personally liable for the collection and payment of the  
22 tax on behalf of a person engaged in the business of providing  
23 transient accommodations or hotel rooms.】

24       Notwithstanding any other provision of law or administrative  
25 action to the contrary, transient space marketplaces shall be  
26 required to collect and pay on behalf of persons engaged in the  
27 business of providing transient accommodations or hotel rooms  
28 located in this State the tax for transactions solely consummated  
29 through the transient space marketplace. For not less than <sup>2</sup>【three】  
30 four<sup>2</sup> years following the end of the calendar year in which the  
31 transaction occurred, the transient space marketplace shall maintain  
32 <sup>2</sup>【and provide, on a quarterly basis, the Division of Taxation with】<sup>2</sup>  
33 the following data for those transactions consummated through the  
34 transient space marketplace:

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

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

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

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

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

45       (6) 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 (7) 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 (8) Such other information as the Division of Taxation may by  
9 rule require.

10 The Division of Taxation <sup>2</sup>~~shall~~ <sup>2</sup>may<sup>2</sup> audit transient space  
11 marketplaces as necessary to ensure data accuracy and enforce tax  
12 compliance.<sup>1</sup>

13 [c.] d. No person required to collect any tax hereunder shall  
14 advertise or hold out to any person or to the public in general, in  
15 any manner, directly or indirectly, that the tax will not be separately  
16 charged and stated to the customer or that the tax will be refunded  
17 to the customer.

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

21 [e.] f. The city shall enforce the payment of delinquent hotel  
22 occupancy taxes in the same manner as provided for municipal real  
23 property taxes.

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

25

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

28 3. The governing body of a municipality, other than a city of  
29 the first class or a city of the second class in which the tax  
30 authorized under P.L.1981, c.77 (C.40:48E-1 et seq.) is imposed, a  
31 city of the fourth class in which the tax authorized under P.L.1947,  
32 c.71 (C.40:48-8.15 et seq.) is imposed, or a municipality in which  
33 the tax and assessment authorized under section 4 of P.L.1992,  
34 c.165 (C.40:54D-4) is imposed, may adopt an ordinance imposing a  
35 tax, at a uniform percentage rate not to exceed 1% on charges of  
36 rent for every occupancy on or after July 1, 2003 but before July 1,  
37 2004, and not to exceed 3% on charges of rent for every occupancy  
38 on or after July 1, 2004, of a room or rooms in a hotel or transient  
39 accommodation subject to taxation pursuant to subsection (d) of  
40 section 3 of P.L.1966, c.30 (C.54:32B-3). An ordinance so adopted  
41 may also require that unpaid taxes under this section shall be  
42 subject to interest at the rate of 5% per annum.

43 A tax imposed under this section shall be in addition to any other  
44 tax or fee imposed pursuant to statute or local ordinance or  
45 resolution by any governmental entity upon the occupancy of a  
46 hotel room.

47 A copy of an ordinance adopted pursuant to this section shall be  
48 transmitted upon adoption or amendment to the State Treasurer,

1 together with a list of the names and addresses of all of the hotels  
2 and motels located in the municipality. An ordinance so adopted or  
3 any amendment thereto shall provide that the tax provisions of the  
4 ordinance or any amendment to the tax provisions shall take effect  
5 on the first day of the first full month occurring 30 days after the  
6 date of transmittal to the State Treasurer for ordinances adopted in  
7 calendar year 2003 and on the first day of the first full month  
8 occurring 90 days after the date of transmittal to the State Treasurer  
9 for ordinances adopted in calendar year 2004 and thereafter.

10 A municipality that has adopted an ordinance pursuant to this  
11 section shall annually provide to the State Treasurer, not later than  
12 January 1 of each year, a list of the names and addresses of all of  
13 the hotels and motels located in the municipality. A municipality  
14 shall also provide to the State Treasurer the name and address of  
15 any hotel or motel that commences operation after January 1 of any  
16 year.

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

18

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

21 5. a. A tax imposed pursuant to a municipal ordinance adopted  
22 under the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1)  
23 shall be collected on behalf of the municipality by the person  
24 collecting the rent from the hotel <sup>1</sup>or transient accommodation<sup>1</sup>  
25 customer.

26 b. Each person required to collect a tax imposed by the  
27 ordinance shall be personally liable for the tax imposed, collected  
28 or required to be collected hereunder. Any such person shall have  
29 the same right in respect to collecting the tax from a customer as if  
30 the tax were a part of the rent and payable at the same time;  
31 provided, however, that the chief fiscal officer of the municipality  
32 shall be joined as a party in any action or proceeding brought to  
33 collect the tax.

34 c. <sup>1</sup>Notwithstanding any other provision of this section to the  
35 contrary, the Director of the Division of Taxation in the Department  
36 of the Treasury may enter into an agreement with the owner or  
37 operator of a transient space marketplace for the purpose of  
38 collection and payment of the tax for transactions solely  
39 consummated through the transient space marketplace. Upon  
40 entering an agreement with the owner or operator of a transient  
41 space marketplace, the director may waive the responsibility of a  
42 person engaged in the business of providing transient  
43 accommodations or hotel rooms to collect and pay the tax. The  
44 owner or operator of the transient space marketplace shall agree to  
45 be personally liable for the collection and payment of the tax on  
46 behalf of a person engaged in the business of providing transient  
47 accommodations or hotel rooms.】

1 Notwithstanding any other provision of law or administrative  
2 action to the contrary, transient space marketplaces shall be  
3 required to collect and pay on behalf of persons engaged in the  
4 business of providing transient accommodations or hotel rooms  
5 located in this State the tax for transactions solely consummated  
6 through the transient space marketplace. For not less than <sup>2</sup>[three]  
7 four<sup>2</sup> years following the end of the calendar year in which the  
8 transaction occurred, the transient space marketplace shall maintain  
9 <sup>2</sup>[and provide, on a quarterly basis, the Division of Taxation with]<sup>2</sup>  
10 the following data for those transactions consummated through the  
11 transient space marketplace:

12 (1) The name of the person who provided the transient  
13 accommodation or hotel room;

14 (2) The name of the customer who procured occupancy of the  
15 transient accommodation or hotel room;

16 (3) The address, including any unit designation, of the transient  
17 accommodation or hotel room;

18 (4) The dates and nightly rates for which the consumer procured  
19 occupancy of the transient accommodation or hotel room;

20 (5) The municipal transient accommodation registration number,  
21 if applicable;

22 (6) A statement as to whether such booking services will be  
23 provided in connection with (i) short-term rental of the entirety of  
24 such unit, (ii) short-term rental of part of such unit, but not the  
25 entirety of such unit, and/or (iii) short-term rental of the entirety of  
26 such unit, or part thereof, in which a non-short-term occupant will  
27 continue to occupy such unit for the duration of such short-term  
28 rental;

29 (7) The individualized name or number of each such  
30 advertisement or listing connected to such unit and the uniform  
31 resource locator (URL) for each such listing or advertisement,  
32 where applicable; and

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

35 The Division of Taxation <sup>2</sup>[shall] may<sup>2</sup> audit transient space  
36 marketplaces as necessary to ensure data accuracy and enforce tax  
37 compliance.<sup>1</sup>

38 (cf: P.L.2003, c.114, s.5)

39  
40 17. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to  
41 read as follows:

42 3. As used in this act:

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

46 "Beach operation offset payment " means a payment made by an  
47 authority to municipalities in its district for tourism development  
48 activities related to operating and maintaining public beaches within

1 a zone to seaward of a line of demarcation located not more than  
2 1,000 feet from the mean high water line.

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

5 "Commissioner" means the Commissioner of the Department of  
6 Commerce and Economic Development.

7 "Construction" means the planning, designing, construction,  
8 reconstruction, rehabilitation, replacement, repair, extension,  
9 enlargement, improvement and betterment of a project, and includes  
10 the demolition, clearance and removal of buildings or structures on  
11 land acquired, held, leased or used for a project.

12 "Convention center facility" means any convention hall or center  
13 or like structure or building, and shall include all facilities,  
14 including commercial, office, community service, parking facilities  
15 and all property rights, easements and interests, and other facilities  
16 constructed for the accommodation and entertainment of tourists  
17 and visitors, constructed in conjunction with a convention center  
18 facility and forming reasonable appurtenances thereto but does not  
19 mean the Wildwood convention center facility as defined in this  
20 section.

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

25 "Cost" means all or any part of the expenses incurred in  
26 connection with the acquisition, construction and maintenance of  
27 any real property, lands, structures, real or personal property rights,  
28 rights-of-way, franchises, easements, and interests acquired or used  
29 for a project; any financing charges and reserves for the payment of  
30 principal and interest on bonds or notes; the expenses of  
31 engineering, appraisal, architectural, accounting, financial and legal  
32 services; and other expenses as may be necessary or incident to the  
33 acquisition, construction and maintenance of a project, the  
34 financing thereof and the placing of the project into operation.

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

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

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

40 "Outdoor special events arena" means a facility or structure for  
41 the holding outdoors of public events, entertainments, sporting  
42 events, concerts or similar activities, and shall include all facilities,  
43 property rights and interests, and all appurtenances reasonably  
44 related thereto, constructed for the accommodation and  
45 entertainment of tourists and visitors.

46 "Participant amusement" means a sporting activity or amusement  
47 the charge for which is exempt from taxation under the "Sales and  
48 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) by virtue of the



1 participation of the patron in the activity or amusement, such as  
2 bowling alleys, swimming pools, water slides, miniature golf,  
3 boardwalk or carnival games and amusements, baseball batting  
4 cages, tennis courts, and fishing and sightseeing boats.

5 "Predominantly tourism related retail receipts" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

19 "Transient accommodation" means a room, group of rooms, or  
20 other living or sleeping space for the lodging of occupants,  
21 including but not limited to residences or buildings used as  
22 residences. "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; <sup>1</sup>[or]<sup>1</sup> 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 <sup>1</sup>. ; or leases  
41 of real property with a term of at least 90 consecutive days<sup>1</sup>.

42 "Transient space marketplace" means an online marketplace  
43 through which a person may offer transient accommodations or  
44 hotel rooms to individuals. A "transient space marketplace" allows  
45 transient accommodations or hotel rooms to be advertised or listed  
46 through an online marketplace <sup>1</sup>[and]<sup>1</sup> in exchange for consideration  
47 or<sup>1</sup> provides a means for a customer to arrange for the occupancy of

1 the transient accommodation or hotel room in exchange for  
2 consideration <sup>1</sup>【directly through the online marketplace】. A  
3 ‘transient space marketplace’ shall not include an online  
4 marketplace operated by or on behalf of a hotel or hotel corporation  
5 that facilitates customer occupancy solely for the hotel or hotel  
6 corporation’s owned or managed hotels and franchisees.<sup>1</sup>

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

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

14  
15 18. Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to  
16 read as follows:

17 9. a. (1) A vendor required to collect the tax upon  
18 predominantly tourism related retail receipts or tourism assessment  
19 imposed pursuant to this act shall on or before the dates required  
20 pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to  
21 the director the tax and assessments collected in the preceding  
22 month and make and file a return for the preceding month with the  
23 director on any form and containing any information as the Director  
24 of the Division of Taxation in the Department of the Treasury shall  
25 prescribe by rule or regulation as necessary to determine liability  
26 for the tax and assessment in the preceding month during which the  
27 person was required to collect the tax.

28 (2) A vendor required to collect the tax upon predominantly  
29 tourism related retail receipts and the tourism assessment shall be  
30 personally liable for the tax or assessment imposed, collected, or  
31 required to be paid, collected, or remitted under section 4 of  
32 P.L.1992, c.165 (C.40:54D-4). Any such vendor shall have the  
33 same right in respect to collecting the tax or assessment from that  
34 vendor's customer or in respect to non-payment of the tax or  
35 assessment by the customer as if the tax or assessment were a part  
36 of the purchase price of the property or service, amusement charge  
37 or rent, as the case may be, and payable at the same time; provided  
38 however, that the director shall be joined as a party in any action or  
39 proceeding brought to collect the tax or assessment.

40 For purposes of this paragraph, "vendor" includes: an individual,  
41 partnership, corporation, or an officer, director, stockholder, or  
42 employee of a corporation, or a member or employee of a  
43 partnership, who as such officer, director, stockholder, employee, or  
44 member is under the duty to perform the act in respect of which the  
45 violation occurs.

46 (3) <sup>1</sup>【Notwithstanding any other provision of this section to the  
47 contrary, the Director of the Division of Taxation in the Department  
48 of the Treasury may enter into an agreement with the owner or

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

12 Notwithstanding any other provision of law or administrative  
13 action to the contrary, transient space marketplaces shall be  
14 required to collect and pay on behalf of persons engaged in the  
15 business of providing transient accommodations or hotel rooms  
16 located in this State the tax for transactions solely consummated  
17 through the transient space marketplace. For not less than <sup>2</sup>【three】  
18 four<sup>2</sup> years following the end of the calendar year in which the  
19 transaction occurred, the transient space marketplace shall maintain  
20 <sup>2</sup>【and provide, on a quarterly basis, the Division of Taxation with】<sup>2</sup>  
21 the following data for those transactions consummated through the  
22 transient space marketplace:

23 (1) The name of the person who provided the transient  
24 accommodation or hotel room;

25 (2) The name of the customer who procured occupancy of the  
26 transient accommodation or hotel room;

27 (3) The address, including any unit designation, of the transient  
28 accommodation or hotel room;

29 (4) The dates and nightly rates for which the consumer procured  
30 occupancy of the transient accommodation or hotel room;

31 (5) The municipal transient accommodation registration number,  
32 if applicable;

33 (6) A statement as to whether such booking services will be  
34 provided in connection with (i) short-term rental of the entirety of  
35 such unit, (ii) short-term rental of part of such unit, but not the  
36 entirety of such unit, and/or (iii) short-term rental of the entirety of  
37 such unit, or part thereof, in which a non-short-term occupant will  
38 continue to occupy such unit for the duration of such short-term  
39 rental;

40 (7) The individualized name or number of each such  
41 advertisement or listing connected to such unit and the uniform  
42 resource locator (URL) for each such listing or advertisement,  
43 where applicable; and

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

46 The Division of Taxation <sup>2</sup>【shall】 may<sup>2</sup> audit transient space  
47 marketplaces as necessary to ensure data accuracy and enforce tax  
48 compliance.<sup>1</sup>

1       b. The director may permit or require returns to be made  
2 covering other periods and upon any dates as the director may  
3 specify. In addition, the director may require payments of tax and  
4 assessment liability at any intervals and based upon any  
5 classifications as the director may designate. In prescribing any  
6 other periods to be covered by the return or intervals or  
7 classifications for payment of tax and assessment liability, the  
8 director may take into account the dollar volume of tax and  
9 assessment involved as well as the need for ensuring the prompt and  
10 orderly collection of the tax imposed.

11       c. The director may require amended returns to be filed within  
12 20 days after notice and to contain the information specified in the  
13 notice.

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

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

18

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

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

23       (a) "Person" includes an individual, trust, partnership, limited  
24 partnership, limited liability company, society, association, joint  
25 stock company, corporation, public corporation or public authority,  
26 estate, receiver, trustee, assignee, referee, fiduciary and any other  
27 legal entity.

28       (b) "Purchase at retail" means a purchase by any person at a  
29 retail sale.

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

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

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

37       (1) For the purposes of this act a sale is for "resale, sublease, or  
38 subrent" if it is a sale (A) for resale either as such or as converted  
39 into or as a component part of a product produced for sale by the  
40 purchaser, including the conversion of natural gas into another  
41 intermediate or end product, other than electricity or thermal  
42 energy, produced for sale by the purchaser, (B) for use by that  
43 person in performing the services subject to tax under subsection  
44 (b) of section 3 where the property so sold becomes a physical  
45 component part of the property upon which the services are  
46 performed or where the property so sold is later actually transferred  
47 to the purchaser of the service in conjunction with the performance  
48 of the service subject to tax, (C) of telecommunications service to a

1 telecommunications service provider for use as a component part of  
2 telecommunications service provided to an ultimate customer, or  
3 (D) to a person who receives by contract a product transferred  
4 electronically for further commercial broadcast, rebroadcast,  
5 transmission, retransmission, licensing, relicensing, distribution,  
6 redistribution or exhibition of the product, in whole or in part, to  
7 another person, other than rights to redistribute based on statutory  
8 or common law doctrine such as fair use.

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

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

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

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

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

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

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

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

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

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

34 (f) "Sale, selling or purchase" means any transfer of title or  
35 possession or both, exchange or barter, rental, lease or license to  
36 use or consume, conditional or otherwise, in any manner or by any  
37 means whatsoever for a consideration, or any agreement therefor,  
38 including the rendering of any service, taxable under this act, for a  
39 consideration or any agreement therefor.

40 (g) "Tangible personal property" means personal property that  
41 can be seen, weighed, measured, felt, or touched, or that is in any  
42 other manner perceptible to the senses. "Tangible personal  
43 property" includes electricity, water, gas, steam, and prewritten  
44 computer software including prewritten computer software  
45 delivered electronically.

46 (h) "Use" means the exercise of any right or power over tangible  
47 personal property, specified digital products, services to property or  
48 products, or services by the purchaser thereof and includes, but is

1 not limited to, the receiving, storage or any keeping or retention for  
2 any length of time, withdrawal from storage, any distribution, any  
3 installation, any affixation to real or personal property, or any  
4 consumption of such property or products. Use also includes the  
5 exercise of any right or power over intrastate or interstate  
6 telecommunications and prepaid calling services. Use also includes  
7 the exercise of any right or power over utility service. Use also  
8 includes the derivation of a direct or indirect benefit from a service.

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

11 (1) The term "seller" includes:

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

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

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

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

1 other provision of the "Sales and Use Tax Act," P.L.1966, c.30  
2 (C.54:32B-1 et seq.);

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

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

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

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

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

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

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

43 (3) <sup>1</sup>Notwithstanding any other provision of this section to the  
44 contrary, the director may enter into an agreement with the owner  
45 or operator of a transient space marketplace for the purpose of  
46 collection and payment of the tax for transactions solely  
47 consummated through the transient space marketplace. Upon  
48 entering an agreement with the owner or operator of a transient



1 space marketplace, the director may waive the responsibility of a  
2 person engaged in the business of providing transient  
3 accommodations or hotel rooms to collect and pay the tax. The  
4 owner or operator of the transient space marketplace shall agree to  
5 be personally liable for the collection and payment of the tax on  
6 behalf of a person engaged in the business of providing transient  
7 accommodations or hotel rooms.】

8 Notwithstanding any other provision of law or administrative  
9 action to the contrary, transient space marketplaces shall be  
10 required to collect and pay on behalf of persons engaged in the  
11 business of providing transient accommodations or hotel rooms  
12 located in this State the tax for transactions solely consummated  
13 through the transient space marketplace. For not less than <sup>2</sup>【three】  
14 four<sup>2</sup> years following the end of the calendar year in which the  
15 transaction occurred, the transient space marketplace shall maintain  
16 <sup>2</sup>【and provide, on a quarterly basis, the Division of Taxation with】<sup>2</sup>  
17 the following data for those transactions consummated through the  
18 transient space marketplace:

19 (1) The name of the person who provided the transient  
20 accommodation or hotel room;

21 (2) The name of the customer who procured occupancy of the  
22 transient accommodation or hotel room;

23 (3) The address, including any unit designation, of the transient  
24 accommodation or hotel room;

25 (4) The dates and nightly rates for which the consumer procured  
26 occupancy of the transient accommodation or hotel room;

27 (5) The municipal transient accommodation registration number,  
28 if applicable;

29 (6) A statement as to whether such booking services will be  
30 provided in connection with (i) short-term rental of the entirety of  
31 such unit, (ii) short-term rental of part of such unit, but not the  
32 entirety of such unit, and/or (iii) short-term rental of the entirety of  
33 such unit, or part thereof, in which a non-short-term occupant will  
34 continue to occupy such unit for the duration of such short-term  
35 rental;

36 (7) The individualized name or number of each such  
37 advertisement or listing connected to such unit and the uniform  
38 resource locator (URL) for each such listing or advertisement,  
39 where applicable; and

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

42 The Division of Taxation <sup>2</sup>【shall】 may<sup>2</sup> audit transient space  
43 marketplaces as necessary to ensure data accuracy and enforce tax  
44 compliance.<sup>1</sup>

45 (j) "Hotel" means a building or portion of <sup>1</sup>【it】 a building<sup>1</sup>  
46 which is regularly used and kept open as such for the lodging of  
47 guests. <sup>1</sup>【The term "hotel"】 “Hotel”<sup>1</sup> includes an apartment hotel, a

1 motel, <sup>1</sup>inn, and rooming or<sup>1</sup> boarding house or club, whether or not  
2 meals are served, but does not include a transient accommodation.

3 (k) "Occupancy" means the use or possession or the right to the  
4 use or possession, of any room in a hotel or transient  
5 accommodation.

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

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

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

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

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

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

25 (r) "Dramatic or musical arts admission charge" means any  
26 admission charge paid for admission to a theater, opera house,  
27 concert hall or other hall or place of assembly for a live, dramatic,  
28 choreographic or musical performance.

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

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

35 (u) "Casual sale" means an isolated or occasional sale of an item  
36 of tangible personal property or a specified digital product by a  
37 person who is not regularly engaged in the business of making retail  
38 sales of such property or product where the item of tangible  
39 personal property or the specified digital product was obtained by  
40 the person making the sale, through purchase or otherwise, for the  
41 person's own use.

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

47 (w) "Persons required to collect tax" or "persons required to  
48 collect any tax imposed by this act" includes: every seller of

1 tangible personal property, specified digital products or services;  
2 every recipient of amusement charges; every operator of a hotel or  
3 transient accommodation; every seller of a telecommunications  
4 service; every recipient of initiation fees, membership fees or dues  
5 for access to or use of the property or facilities of a health and  
6 fitness, athletic, sporting or shopping club or organization; and  
7 every recipient of charges for parking, storing or garaging a motor  
8 vehicle. Said terms shall also include any officer or employee of a  
9 corporation or of a dissolved corporation who as such officer or  
10 employee is under a duty to act for such corporation in complying  
11 with any requirement of this act and any member of a partnership.

12 (x) "Customer" includes: every purchaser of tangible personal  
13 property, specified digital products or services; every patron paying  
14 or liable for the payment of any amusement charge; every occupant  
15 of a room or rooms in a hotel or transient accommodation; every  
16 person paying charges in the nature of initiation fees, membership  
17 fees or dues for access to or use of the property or facilities of a  
18 health and fitness, athletic, sporting or shopping club or  
19 organization; and every purchaser of parking, storage or garaging a  
20 motor vehicle.

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

42 (z) "Director" means the Director of the Division of Taxation in  
43 the State Department of the Treasury, or any officer, employee or  
44 agency of the Division of Taxation in the Department of the  
45 Treasury duly authorized by the director (directly, or indirectly by  
46 one or more redelegations of authority) to perform the functions  
47 mentioned or described in this act.

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

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

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

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

13 (C) Providing tangible personal property or a specified digital  
14 product along with an operator for a fixed or indeterminate period  
15 of time. A condition of this exclusion is that the operator is  
16 necessary for the equipment to perform as designed. For the  
17 purpose of this subparagraph, an operator must do more than  
18 maintain, inspect, or set-up the tangible personal property or  
19 specified digital product.

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

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

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

31 (cc) "Telecommunications service" means the electronic  
32 transmission, conveyance, or routing of voice, data, audio, video, or  
33 any other information or signals to a point, or between or among  
34 points.

35 "Telecommunications service" shall include such transmission,  
36 conveyance, or routing in which computer processing applications  
37 are used to act on the form, code, or protocol of the content for  
38 purposes of transmission, conveyance, or routing without regard to  
39 whether such service is referred to as voice over Internet protocol  
40 services or is classified by the Federal Communications  
41 Commission as enhanced or value added.

42 "Telecommunications service" shall not include:

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

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

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

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

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

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

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

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

- 1 (mm) "Mobile telecommunications service" means the same as  
2 that term is defined in the federal "Mobile Telecommunications  
3 Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).
- 4 (nn) (Deleted by amendment, P.L.2008, c.123)
- 5 (oo) (1) "Sales price" is the measure subject to sales tax and  
6 means the total amount of consideration, including cash, credit,  
7 property, and services, for which personal property or services are  
8 sold, leased, or rented, valued in money, whether received in money  
9 or otherwise, without any deduction for the following:
- 10 (A) The seller's cost of the property sold;
- 11 (B) The cost of materials used, labor or service cost, interest,  
12 losses, all costs of transportation to the seller, all taxes imposed on  
13 the seller, and any other expense of the seller;
- 14 (C) Charges by the seller for any services necessary to complete  
15 the sale;
- 16 (D) Delivery charges;
- 17 (E) (Deleted by amendment, P.L.2011, c.49); and
- 18 (F) (Deleted by amendment, P.L.2008, c.123).
- 19 (2) "Sales price" does not include:
- 20 (A) Discounts, including cash, term, or coupons that are not  
21 reimbursed by a third party, that are allowed by a seller and taken  
22 by a purchaser on a sale;
- 23 (B) Interest, financing, and carrying charges from credit  
24 extended on the sale of personal property or services, if the amount  
25 is separately stated on the invoice, bill of sale, or similar document  
26 given to the purchaser;
- 27 (C) Any taxes legally imposed directly on the consumer that are  
28 separately stated on the invoice, bill of sale, or similar document  
29 given to the purchaser;
- 30 (D) The amount of sales price for which food stamps have been  
31 properly tendered in full or part payment pursuant to the federal  
32 Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or
- 33 (E) Credit for any trade-in of property of the same kind accepted  
34 in part payment and intended for resale if the amount is separately  
35 stated on the invoice, bill of sale, or similar document given to the  
36 purchaser.
- 37 (3) "Sales price" includes consideration received by the seller  
38 from third parties if:
- 39 (A) The seller actually receives consideration from a party other  
40 than the purchaser and the consideration is directly related to a price  
41 reduction or discount on the sale;
- 42 (B) The seller has an obligation to pass the price reduction or  
43 discount through to the purchaser;
- 44 (C) The amount of the consideration attributable to the sale is  
45 fixed and determinable by the seller at the time of the sale of the  
46 item to the purchaser; and
- 47 (D) One of the following criteria is met:

1 (i) the purchaser presents a coupon, certificate, or other  
2 documentation to the seller to claim a price reduction or discount  
3 where the coupon, certificate, or documentation is authorized,  
4 distributed, or granted by a third party with the understanding that  
5 the third party will reimburse any seller to whom the coupon,  
6 certificate, or documentation is presented;

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

11 (iii) the price reduction or discount is identified as a third party  
12 price reduction or discount on the invoice received by the purchaser  
13 or on a coupon, certificate, or other documentation presented by the  
14 purchaser.

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

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

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

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

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



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

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

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

28        (hhh) “Transient space marketplace” means an online  
29 marketplace through which a person may offer transient  
30 accommodations or hotel rooms to individuals. A “transient space  
31 marketplace” allows transient accommodations or hotel rooms to be  
32 advertised or listed through an online marketplace <sup>1</sup>**[and]** <sup>1</sup> in  
33 exchange for consideration or<sup>1</sup> provides a means for a customer to  
34 arrange for the occupancy of the transient accommodation or hotel  
35 room in exchange for consideration <sup>1</sup>**[directly through the online**  
36 marketplace]. A ‘transient space marketplace’ shall not include an  
37 online marketplace operated by or on behalf of a hotel or hotel  
38 corporation that facilitates customer occupancy solely for the hotel  
39 or hotel corporation’s owned or managed hotels and franchisees.<sup>1</sup>

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

41  
42        20. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read  
43 as follows:

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

1 (a) The receipts from every retail sale of tangible personal  
2 property or a specified digital product for permanent use or less  
3 than permanent use, and regardless of whether continued payment is  
4 required, except as otherwise provided in P.L.1966, c.30 (C.54:32B-  
5 1 et seq.).

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

8 (1) Producing, fabricating, processing, printing, or imprinting  
9 tangible personal property or a specified digital product, performed  
10 for a person who directly or indirectly furnishes the tangible  
11 personal property or specified digital product, not purchased by the  
12 person for resale, upon which these services are performed.

13 (2) Installing tangible personal property or a specified digital  
14 product, or maintaining, servicing, repairing tangible personal  
15 property or a specified digital product not held for sale in the  
16 regular course of business, whether or not the services are  
17 performed directly or by means of coin-operated equipment or by  
18 any other means, and whether or not any tangible personal property  
19 or specified digital product is transferred in conjunction therewith,  
20 except (i) such services rendered by an individual who is engaged  
21 directly by a private homeowner or lessee in or about his residence  
22 and who is not in a regular trade or business offering his services to  
23 the public, (ii) such services rendered with respect to personal  
24 property exempt from taxation hereunder pursuant to section 13 of  
25 P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment,  
26 P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning,  
27 tailoring, weaving, or pressing clothing, and shoe repairing and  
28 shoeshining, and (v) services rendered in installing property which,  
29 when installed, will constitute an addition or capital improvement to  
30 real property, property or land, other than landscaping services and  
31 other than installing carpeting and other flooring.

32 (3) Storing all tangible personal property not held for sale in the  
33 regular course of business; the rental of safe deposit boxes or  
34 similar space; and the furnishing of space for storage of tangible  
35 personal property by a person engaged in the business of furnishing  
36 space for such storage.

37 "Space for storage" means secure areas, such as rooms, units,  
38 compartments, or containers, whether accessible from outside or  
39 from within a building, that are designated for the use of a customer  
40 and wherein the customer has free access within reasonable  
41 business hours, or upon reasonable notice to the furnisher of space  
42 for storage, to store and retrieve property. Space for storage shall  
43 not include the lease or rental of an entire building, such as a  
44 warehouse or airplane hangar.

45 (4) Maintaining, servicing, or repairing real property, other than  
46 a residential heating system unit serving not more than three  
47 families living independently of each other and doing their cooking  
48 on the premises, whether the services are performed in or outside of

1 a building, as distinguished from adding to or improving the real  
2 property by a capital improvement, but excluding services rendered  
3 by an individual who is not in a regular trade or business offering  
4 his services to the public, and excluding garbage removal and sewer  
5 services performed on a regular contractual basis for a term not less  
6 than 30 days.

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

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

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

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

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

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

21 (11) Investigation and security services.

22 (12) Information services.

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

24 (14) Telephone answering services.

25 (15) Radio subscription services.

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

30 Services otherwise taxable under paragraph (1) or (2) of  
31 subsection (b) of this section are not subject to the taxes imposed  
32 under this subsection, where the tangible personal property or  
33 specified digital product upon which the services were performed is  
34 delivered to the purchaser outside this State for use outside this  
35 State.

36 (c) (1) Receipts from the sale of prepared food in or by  
37 restaurants, taverns, or other establishments in this State, or by  
38 caterers, including in the amount of such receipts any cover,  
39 minimum, entertainment, or other charge made to patrons or  
40 customers, except for meals especially prepared for and delivered to  
41 homebound elderly, age 60 or older, and to persons with  
42 disabilities, or meals prepared and served at a group-sitting at a  
43 location outside of the home to otherwise homebound elderly  
44 persons, age 60 or older, and otherwise homebound persons with  
45 disabilities, as all or part of any food service project funded in  
46 whole or in part by government or as part of a private, nonprofit  
47 food service project available to all such elderly or persons with

1 disabilities residing within an area of service designated by the  
2 private nonprofit organization; and

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

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

13 (3) For the purposes of this subsection:

14 "Food and beverages sold through vending machines" means  
15 food and beverages dispensed from a machine or other mechanical  
16 device that accepts payment; and

17 "Prepared food" means:

18 (i) A. food sold in a heated state or heated by the seller; or

19 B. two or more food ingredients mixed or combined by the  
20 seller for sale as a single item, but not including food that is only  
21 cut, repackaged, or pasteurized by the seller, and eggs, fish, meat,  
22 poultry, and foods containing these raw animal foods requiring  
23 cooking by the consumer as recommended by the Food and Drug  
24 Administration in Chapter 3, part 401.11 of its Food Code so as to  
25 prevent food borne illnesses; or

26 C. food sold with eating utensils provided by the seller,  
27 including plates, knives, forks, spoons, glasses, cups, napkins, or  
28 straws. A plate does not include a container or packaging used to  
29 transport the food;  
30 provided however, that

31 (ii) "prepared food" does not include the following sold without  
32 eating utensils:

33 A. food sold by a seller whose proper primary NAICS  
34 classification is manufacturing in section 311, except subsector  
35 3118 (bakeries);

36 B. food sold in an unheated state by weight or volume as a  
37 single item; or

38 C. bakery items, including bread, rolls, buns, biscuits, bagels,  
39 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,  
40 muffins, bars, cookies, and tortillas.

41 (d) The rent for every occupancy of a room or rooms in a hotel  
42 or transient accommodation in this State, except that the tax shall  
43 not be imposed upon a permanent resident.

44 (e) (1) Any admission charge to or for the use of any place of  
45 amusement in the State, including charges for admission to race  
46 tracks, baseball, football, basketball or exhibitions, dramatic or  
47 musical arts performances, motion picture theaters, except charges  
48 for admission to boxing, wrestling, kick boxing, or combative

1 sports exhibitions, events, performances, or contests which charges  
2 are taxed under any other law of this State or under section 20 of  
3 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for  
4 admission to, or use of, facilities for sporting activities in which the  
5 patron is to be a participant, such as bowling alleys and swimming  
6 pools. For any person having the permanent use or possession of a  
7 box or seat or lease or a license, other than a season ticket, for the  
8 use of a box or seat at a place of amusement, the tax shall be upon  
9 the amount for which a similar box or seat is sold for each  
10 performance or exhibition at which the box or seat is used or  
11 reserved by the holder, licensee, or lessee, and shall be paid by the  
12 holder, licensee, or lessee.

13 (2) The amount paid as charge of a roof garden, cabaret, or other  
14 similar place in this State, to the extent that a tax upon these  
15 charges has not been paid pursuant to subsection (c) hereof.

16 (f) (1) The receipts from every sale, except for resale, of  
17 intrastate, interstate, or international telecommunications services  
18 and ancillary services sourced to this State in accordance with  
19 section 29 of P.L.2005, c.126 (C.54:32B-3.4).

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

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

22 (h) Charges in the nature of initiation fees, membership fees or  
23 dues for access to or use of the property or facilities of a health and  
24 fitness, athletic, sporting, or shopping club or organization in this  
25 State, except for: (1) membership in a club or organization whose  
26 members are predominantly age 18 or under; and (2) charges in the  
27 nature of membership fees or dues for access to or use of the  
28 property or facilities of a health and fitness, athletic, sporting, or  
29 shopping club or organization that is exempt from taxation pursuant  
30 to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30  
31 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph  
32 (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30  
33 (C.54:32B-9) and that has complied with subsection (d) of section 9  
34 of P.L.1966, c.30 (C.54:32B-9).

35 (i) The receipts from parking, storing, or garaging a motor  
36 vehicle, excluding charges for the following: residential parking;  
37 employee parking, when provided by an employer or at a facility  
38 owned or operated by the employer; municipal parking, storing, or  
39 garaging; receipts from charges or fees imposed pursuant to section  
40 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement  
41 between the Casino Reinvestment Development Authority and a  
42 casino operator in effect on the date of enactment of P.L.2007,  
43 c.105; and receipts from parking, storing, or garaging a motor  
44 vehicle subject to tax pursuant to any other law or ordinance.

45 For the purposes of this subsection, "municipal parking, storing,  
46 or garaging" means any motor vehicle parking, storing, or garaging

1 provided by a municipality or county, or a parking authority  
2 thereof.

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

4

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

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

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

17 (2) The United States of America, and any of its agencies and  
18 instrumentalities, insofar as it is immune from taxation where it is  
19 the purchaser, user or consumer, or where it sells services or  
20 property of a kind not ordinarily sold by private persons;

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

25 (b) Except as otherwise provided in this section any sale or  
26 amusement charge by or to any of the following or any use or  
27 occupancy by any of the following, where such sale, charge, use or  
28 occupancy is directly related to the purposes for which the  
29 following have been organized, shall not be subject to the sales and  
30 use taxes imposed under this act: a corporation, association, trust,  
31 or community chest, fund or foundation, organized and operated  
32 exclusively (1) for religious, charitable, scientific, testing for public  
33 safety, literary or educational purposes; or (2) for the prevention of  
34 cruelty to children or animals; or (3) as a volunteer fire company,  
35 rescue, ambulance, first aid or emergency company or squad; or (4)  
36 as a National Guard organization, post or association, or as a post or  
37 organization of war veterans, or the Marine Corps League, or as an  
38 auxiliary unit or society of any such post, organization or  
39 association; or (5) as an association of parents and teachers of an  
40 elementary or secondary public or private school exempt under the  
41 provisions of this section. Such a sale, charge, use or occupancy  
42 by, or a sale or charge to, an organization enumerated in this  
43 subsection, shall not be subject to the sales and use taxes only if no  
44 part of the net earnings of the organization inures to the benefit of  
45 any private shareholder or individual, no substantial part of the  
46 activities of the organization is carrying on propaganda, or  
47 otherwise attempting to influence legislation, and the organization  
48 does not participate in, or intervene in (including the publishing or

1 distributing of statements), any political campaign on behalf of any  
2 candidate for public office.

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

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

8 (2) retail sales of tangible personal property or specified digital  
9 products by any shop or store operated by an organization described  
10 in subsection (b) of this section, unless the tangible personal  
11 property or specified digital product was received by the  
12 organization as a gift or contribution and the shop or store is one in  
13 which substantially all the work in carrying on the business of the  
14 shop or store is performed for the organization without  
15 compensation and substantially all of the shop's or store's  
16 merchandise has been received by the organization as gifts or  
17 contributions or unless the purchaser is an organization exempt  
18 under this section; or

19 (3) the sale or use of energy or utility service to or by an  
20 organization described in paragraph (1) of subsection (a) or  
21 subsection (b) of this section.

22 (d) Any organization enumerated in subsection (b) of this  
23 section shall not be entitled to an exemption granted pursuant to this  
24 section unless it has complied with such requirements for obtaining  
25 a tax immunity authorization as may be provided in this act.

26 (e) Where any organization described in subsection (b) of this  
27 subsection carries on its activities in furtherance of the purposes for  
28 which it was organized, in premises in which, as part of those  
29 activities, it operates a hotel or transient accommodation,  
30 occupancy of rooms in the premises and rents from those rooms  
31 received by the organization shall not be subject to tax under the  
32 "Sales and Use Tax Act."

33 (f) (1) Except as provided in paragraph (2) of this subsection,  
34 any admissions all of the proceeds of which inure exclusively to the  
35 benefit of the following organizations shall not be subject to any of  
36 the taxes imposed under subsection (e) of section 3 of P.L.1966,  
37 c.30 (C.54:32B-3):

38 (A) an organization described in paragraph (1) of subsection (a)  
39 or subsection (b) of this section;

40 (B) a society or organization conducted for the sole purpose of  
41 maintaining symphony orchestras or operas and receiving  
42 substantial support from voluntary contributions; or

43 (C) (Deleted by amendment, P.L.1999, c.416).

44 (D) a police or fire department of a political subdivision of the  
45 State, or a volunteer fire company, ambulance, first aid, or  
46 emergency company or squad, or exclusively to a retirement,  
47 pension or disability fund for the sole benefit of members of a  
48 police or fire department or to a fund for the heirs of such members.



1 (2) The exemption provided under paragraph (1) of this  
2 subsection shall not apply in the case of admissions to:

3 (A) Any athletic game or exhibition unless the proceeds shall  
4 inure exclusively to the benefit of elementary or secondary schools  
5 or unless in the case of an athletic game between two elementary or  
6 secondary schools, the entire gross proceeds from such game shall  
7 inure to the benefit of one or more organizations described in  
8 subsection (b) of this section;

9 (B) Carnivals, rodeos, or circuses in which any professional  
10 performer or operator participates for compensation;

11 (3) Admission charges for admission to the following places or  
12 events shall not be subject to any of the taxes imposed under  
13 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

14 (A) Any admission to agricultural fairs if no part of the net  
15 earnings thereof inures to the benefit of any stockholders or  
16 members of the association conducting the same; provided the  
17 proceeds therefrom are used exclusively for the improvement,  
18 maintenance and operation of such agricultural fairs.

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

24 (C) Any admissions to historic sites, houses and shrines, and  
25 museums conducted in connection therewith, maintained and  
26 operated by a society or organization devoted to the preservation  
27 and maintenance of such historic sites, houses, shrines and  
28 museums; provided no part of the net earnings thereof inures to the  
29 benefit of any private stockholder or individual.

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

31

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

34 1. a. In addition to any other tax, assessment or use fee  
35 authorized by law, there is imposed and shall be paid a hotel and  
36 motel occupancy fee of 7% for occupancies on and after August 1,  
37 2003 but before July 1, 2004, and of 5% for occupancies on and  
38 after July 1, 2004, upon the rent for every occupancy of a room or  
39 rooms in a hotel or transient accommodation subject to taxation  
40 pursuant to subsection (d) of section 3 of P.L.1966, c.30 (C:54:32B-  
41 3), which every person required to collect tax shall collect from the  
42 customer when collecting the rent to which it applies; provided  
43 however, that on and after the tenth day following a certification by  
44 the Director of the Division of Budget and Accounting in the  
45 Department of the Treasury pursuant to subsection d. of section 2 of  
46 P.L.2003, c.114 (C.54:32D-2), no such fee shall be paid or  
47 collected; and provided further that:

1 (1) the combined rates of the fee imposed under this section,  
2 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,  
3 c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947,  
4 c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of 14% on  
5 or before December 31, 2016, 13.875% on and after January 1,  
6 2017 but before January 1, 2018, and 13.625% on and after January  
7 1, 2018, and to the extent that the total combined rate of taxation for  
8 the listed fees and taxes would exceed 14% on or before December  
9 31, 2016, 13.875% on and after January 1, 2017 but before January  
10 1, 2018, and 13.625% on and after January 1, 2018, the fee imposed  
11 under this section shall be reduced so that the total combined rate  
12 equals 14% on or before December 31, 2016, 13.875% on and after  
13 January 1, 2017 but before January 1, 2018, and 13.625% on and  
14 after January 1, 2018;

15 (2) the combined rates of the fee imposed under this section,  
16 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,  
17 c.30 (C.54:32B-1 et seq.), plus any tax and assessment imposed  
18 under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a  
19 total rate of 14% on or before December 31, 2016, 13.875% on and  
20 after January 1, 2017 but before January 1, 2018, and 13.625% on  
21 and after January 1, 2018, and to the extent that the total combined  
22 rate of taxation for the listed fees and taxes would exceed 14% on  
23 or before December 31, 2016, 13.875% on and after January 1,  
24 2017 but before January 1, 2018, and 13.625% on and after January  
25 1, 2018, the fee imposed under this section shall be reduced so that  
26 the total combined rate equals 14% on or before December 31,  
27 2016, 13.875% on and after January 1, 2017 but before January 1,  
28 2018, and 13.625% on and after January 1, 2018; and

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

32 b. The hotel and motel occupancy fee imposed by subsection a.  
33 of this section shall not be imposed on the rent for an occupancy if  
34 the purchaser, user or consumer is an entity exempt from the tax  
35 imposed on an occupancy under the "Sales and Use Tax Act"  
36 pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-  
37 9).

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

41  
42 23. Section 2 of P.L.2003, c.114 (C.54:32D-2) is amended to  
43 read as follows:

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

1 (1) of the fees collected for occupancies during State Fiscal  
2 Year 2004: \$16,000,000 shall be allocated for appropriation to the  
3 New Jersey State Council on the Arts for cultural projects;  
4 \$2,700,000 shall be allocated for appropriation to the New Jersey  
5 Historical Commission for the purposes of subsection a. of section 3  
6 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated  
7 for appropriation to the New Jersey Commerce and Economic  
8 Growth Commission for tourism advertising and promotion; and  
9 \$500,000 shall be allocated for appropriation to the New Jersey  
10 Cultural Trust; and

11 (2) of the fees collected for occupancies during State Fiscal  
12 Year 2005 and thereafter: 22.68 percent shall be annually allocated  
13 for appropriation to the New Jersey State Council on the Arts for  
14 cultural projects, provided that the amount allocated shall not be  
15 less than \$22,680,000; 3.84 percent shall be allocated for  
16 appropriation to the New Jersey Historical Commission for the  
17 purposes of subsection a. of section 3 of P.L.1999,  
18 c.131 (C.18A:73-22.3), provided that the amount allocated shall not  
19 be less than \$3,840,000; 12.76 percent shall be allocated for  
20 appropriation to the New Jersey Commerce and Economic Growth  
21 Commission for tourism advertising and promotion, provided that  
22 the amount allocated shall not be less than \$12,760,000; and .72  
23 percent shall be allocated for appropriation to the New Jersey  
24 Cultural Trust, provided that the amount allocated shall not be less  
25 than \$720,000.

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

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

44 For purposes of this paragraph, "person" includes: an individual,  
45 partnership, corporation, or an officer, director, stockholder, or  
46 employee of a corporation, or a member or employee of a  
47 partnership, who as such officer, director, stockholder, employee, or

1 member is under the duty to perform the act in respect of which the  
2 violation occurs.

3 (3) <sup>1</sup>Notwithstanding any other provision of this section to the  
4 contrary, the director may enter into an agreement with the owner  
5 or operator of a transient space marketplace for the purpose of  
6 collection and payment of the fee for transactions solely  
7 consummated through the transient space marketplace. Upon  
8 entering an agreement with the owner or operator of a transient  
9 space marketplace, the director may waive the responsibility of a  
10 person engaged in the business of providing transient  
11 accommodations or hotel rooms to collect and pay the fee. The  
12 owner or operator of the transient space marketplace shall agree to  
13 be personally liable for the collection and payment of the fee on  
14 behalf of a person engaged in the business of providing transient  
15 accommodations or hotel rooms.】

16 Notwithstanding any other provision of law or administrative  
17 action to the contrary, transient space marketplaces shall be  
18 required to collect and pay on behalf of persons engaged in the  
19 business of providing transient accommodations or hotel rooms  
20 located in this State the tax for transactions solely consummated  
21 through the transient space marketplace. For not less than <sup>2</sup>three  
22 four<sup>2</sup> years following the end of the calendar year in which the  
23 transaction occurred, the transient space marketplace shall maintain  
24 <sup>2</sup>and provide, on a quarterly basis, the Division of Taxation with<sup>2</sup>  
25 the following data for those transactions consummated through the  
26 transient space marketplace:

27 (1) The name of the person who provided the transient  
28 accommodation or hotel room;

29 (2) The name of the customer who procured occupancy of the  
30 transient accommodation or hotel room;

31 (3) The address, including any unit designation, of the transient  
32 accommodation or hotel room;

33 (4) The dates and nightly rates for which the consumer procured  
34 occupancy of the transient accommodation or hotel room;

35 (5) The municipal transient accommodation registration number,  
36 if applicable;

37 (6) A statement as to whether such booking services will be  
38 provided in connection with (i) short-term rental of the entirety of  
39 such unit, (ii) short-term rental of part of such unit, but not the  
40 entirety of such unit, and/or (iii) short-term rental of the entirety of  
41 such unit, or part thereof, in which a non-short-term occupant will  
42 continue to occupy such unit for the duration of such short-term  
43 rental;

44 (7) The individualized name or number of each such  
45 advertisement or listing connected to such unit and the uniform  
46 resource locator (URL) for each such listing or advertisement,  
47 where applicable; and

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

1 The Division of Taxation <sup>2</sup>~~shall~~ <sup>2</sup> may <sup>2</sup> audit transient space  
2 marketplaces as necessary to ensure data accuracy and enforce tax  
3 compliance.<sup>1</sup>

4 c. The annual appropriations act for each State Fiscal Year,  
5 commencing with fiscal year 2005, shall appropriate and distribute  
6 during that fiscal year amounts not less than the amounts otherwise  
7 specified for State Fiscal Year 2004 in paragraph (1) of subsection  
8 a. of this section for the purposes specified in paragraph (1) of  
9 subsection a. of this section.

10 d. If the provisions of subsection c. of this section are not met  
11 on the effective date of an annual appropriations act for the State  
12 fiscal year, or if an amendment or supplement to an annual  
13 appropriations act for the State fiscal year should violate the  
14 provisions of subsection c. of this section, the Director of the  
15 Division of Budget and Accounting in the Department of the  
16 Treasury shall, not later than five days after the enactment of the  
17 annual appropriations act, or an amendment or supplement thereto,  
18 that violates the provisions of subsection c. of this section, certify to  
19 the Director of the Division of Taxation that the requirements of  
20 subsection c. of this section have not been met.

21 e. The Director of the Division of Taxation shall, no later than  
22 five days after certification by the Director of the Division of  
23 Budget and Accounting in the Department of the Treasury pursuant  
24 to subsection d. of this section that the provisions of subsection c.  
25 of this section have not been met or have been violated by an  
26 amendment or supplement to the annual appropriations act, notify  
27 each person required to collect tax of the certification and that the  
28 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1)  
29 shall no longer be paid or collected.

30 (cf: P.L.2007, c.102, s.4)

31

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



# ASSEMBLY, No. 1753

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

**Assemblyman Gusciora**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.



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

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

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

19

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31  
32 3. Section 3 of P.L.2007, c.30 (C.34:1B-192) is amended to  
33 read as follows:

34 3. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13

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

16 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

33 1. As used in this act:

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

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

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

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

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

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

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

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

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

40

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

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

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

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

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

13

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

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

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

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

43

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

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

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

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

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

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

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

38

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

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

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

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

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

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

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

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

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

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

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

38

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

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

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

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

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

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

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

31

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

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

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

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

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

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

16 3. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 "Predominantly tourism related retail receipts" means:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (1) The term "seller" includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 "Telecommunications service" shall not include:

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

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

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

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

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

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

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

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

46 (9) tangible personal property;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

5 (11) Investigation and security services.

6 (12) Information services.

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

8 (14) Telephone answering services.

9 (15) Radio subscription services.

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

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

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

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

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

44 (3) For the purposes of this subsection:

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

48 "Prepared food" means:

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

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

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

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

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

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

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

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

33

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22

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

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

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

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



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

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

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

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

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

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

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

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

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

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

43

44

#### STATEMENT

45

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

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

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

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

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

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

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

41 -- a hotel or hotel room;

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

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

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

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

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

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

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

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

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

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1753**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 18, 2018

The Assembly Budget Committee reports favorably Assembly Bill No. 1753, with committee amendments.

As amended, the bill imposes the sales and use tax and the State hotel and motel occupancy fee on charges for the occupancy of a transient accommodation in this State, and permits municipalities authorized to impose the Meadowlands regional hotel use assessment, the sports and entertainment facility tax, the Atlantic City luxury tax, the Atlantic City promotion fee, the hotel occupancy tax, the municipal hotel and motel occupancy tax, and the Cape May County tourism tax and assessment to similarly require the collection of tax on charges for the occupancy of a transient accommodation.

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

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

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

For purposes of the bill, a transient accommodation is a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used

as residences. The bill defines a residence as a house, condominium, or other residential dwelling unit in a building or structure or part of a building or structure that is designed, constructed, leased, rented, let or hired out, or otherwise made available for use as a residence.

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

- a hotel or hotel room;
- a room, group of rooms, or other living or sleeping space used as a place of assembly;
- a dormitory or other similar residential facility of an elementary or secondary school or a college or university;
- a hospital, nursing home, or other similar residential facility of a provider of services for the care, support and treatment of individuals that is licensed by the State;
- a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; or
- a furnished or unfurnished private residential property where no maid service, room service, linen changing service or other common hotel services are made available by the lessor and where the keys to the furnished or unfurnished private residential property are provided to the lessee at the location of an offsite real estate broker.

The bill does not impose occupancy or sales and use taxes on leases of real property with a term of at least 90 consecutive days.

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

The bill requires transient space marketplaces to collect and pay on behalf of persons engaged in the business of providing transient accommodations or hotel rooms located in this State the tax for transactions solely consummated through the transient space marketplace. For not less than three years following the end of the calendar year in which the transaction occurred, the transient space marketplace is required to maintain and provide, on a quarterly

basis, the Division of Taxation with the following data for those transactions consummated through the transient space marketplace:

- (1) The name of the person who provided the transient accommodation or hotel room;
- (2) The name of the customer who procured occupancy of the transient accommodation or hotel room;
- (3) The address, including any unit designation, of the transient accommodation or hotel room;
- (4) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation or hotel room;
- (5) The municipal transient accommodation registration number, if applicable;
- (6) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;
- (7) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and
- (8) Such other information as the Division of Taxation may by rule require.

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

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

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

#### COMMITTEE AMENDMENTS

The amendments clarify that leases of real property with a term of at least 90 consecutive days are exempt.

The amendments require a transient space marketplace to collect and pay on behalf of persons engaged in the business of providing transient accommodations or hotel rooms.

The amendments provide for certain quarterly reporting requirements.

The amendments revise the definition of hotel in certain sections to reflect prior enacted definitions.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects that the enactment of the bill will produce a recurring annual increase in State and local tax and fee revenues, but lacks sufficient information to determine the magnitude of the gain in fiscal years following enactment. In large part, data concerning the number and types of rental properties which would qualify as a transient accommodation under the bill, and the rates that are or may be charged for occupancies of those accommodations in the future are unknown and preclude the OLS from producing a quantitative estimate regarding the overall impact of the bill on State and local revenues.



STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 1753**

with Assembly Floor Amendments  
(Proposed by Senators DIEGNAN and SARLO)

ADOPTED: JUNE 25, 2018

These amendments modify the data keeping requirements imposed on persons engaged in providing hotel rooms or transient accommodations. Records must be kept for four years instead of three, but do not need to be provided to the Division of Taxation on a quarterly basis, and the Division of Taxation may audit for accuracy.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**ASSEMBLY, No. 1753**

## **STATE OF NEW JERSEY 218th LEGISLATURE**

DATED: JULY 2, 2018

### SUMMARY

- Synopsis:** Imposes State sales and use tax and hotel and motel occupancy fee on transient accommodations; authorizes various municipal taxes and fees on transient accommodations.
- Type of Impact:** Annual revenue gain to State General Fund; potential annual revenue gain for local governments.
- Agencies Affected:** Department of the Treasury;  
local governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2019</u></b>	<b><u>FY 2020 and thereafter</u></b>
<b>State Revenue Gain</b>		Indeterminate
<b>Potential Local Revenue Gain</b>		Indeterminate

- The Office of Legislative Services (OLS) expects the bill to produce an annual increase in State sales and use tax and hotel and motel fee revenues from newly imposing the tax and fee on the rent charged for each occupancy of a room in a transient accommodation in the State; however, the OLS lacks sufficient data to quantify the magnitude of the gain in the fiscal years following enactment.
- Local governments which choose to impose applicable local taxes and fees authorized pursuant to the bill are anticipated to receive indeterminate annual increases in revenue. Certain municipalities, such as Atlantic City, may generate additional revenues since those municipalities are authorized to impose local taxes and fees exclusive to those districts.

### BILL DESCRIPTION

This bill subjects charges of rent for providing transient accommodations in this State to the State sales and use tax and the State hotel and motel occupancy fee. In addition, the bill authorizes municipalities to impose the following taxes and fees on transient accommodations:

- Hotel Occupancy Tax (C.40:48E-1 et seq.);
- Atlantic City Luxury Tax (C.40:48-8.15 et seq.);
- Atlantic City Promotion Fee (C.40:48-8.45 et seq.);
- Cape May County Tourism Sales Tax (C.40:54D-1 et seq.);
- Cape May County Tourism Assessment (C.40:54D-1 et seq.);
- Municipal Occupancy Tax (C.40:48F-1 et seq.);
- Sports and Entertainment Facility Tax (C.34:1B-190 et seq.); and
- Meadowlands Regional Hotel Use Assessment (C.5:10A-82 et seq.).

Certain local taxes and fees are restricted to specific municipalities. For example, the Atlantic City Luxury Tax and the Atlantic City Promotion Fee are currently imposed on the rent charged for the occupancy of a hotel room within Atlantic City. Thus, only the taxes and fees a municipality is currently authorized to impose on the rent charged for the occupancy of a hotel room may be imposed on the rent charged for the occupancy of a transient accommodation following the enactment of the bill.

The bill exempts a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp. Additionally, the bill exempts from taxation furnished or unfurnished properties which are made available by the lessor and where the keys to the property, regardless whether a physical key or keyless locking mechanism is used to access the property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission, and leases of real property with a term of at least 90 consecutive days. The bill treats permanent residents and charitable, non-profit organizations that lease or rent transient accommodations consistent with how those individuals and organizations are treated for purposes of hotel and motel occupancies.

The bill imposes certain data keeping requirements on persons engaged in the business of providing hotel rooms or transient accommodations for rent. The bill's tax and fee provisions take effect on the first day of the first full calendar quarter beginning at least 90 days following the bill's date of enactment.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS expects the bill to produce an annual increase in State sales and use tax and hotel and motel fee revenues from newly imposing the tax and fee on the rent charged for each occupancy of a room in a transient accommodation in the State; however, the OLS lacks sufficient data to quantify the magnitude of the gain in the fiscal years following enactment. Additionally, local governments which choose to impose applicable local taxes and fees authorized pursuant to the bill are anticipated to receive annual increases in revenue. Certain municipalities, such as Atlantic City, may generate additional revenues since those municipalities are authorized to impose local taxes and fees exclusive to those districts.

The OLS notes that data concerning rental properties which would qualify as a transient accommodation pursuant to the provisions of the bill and the rates being charged for access to those transient accommodations are unavailable. Additionally, various municipalities have considered or acted to ban the rental of transient accommodations, which has the potential to

reduce the number of transient accommodation rentals available in the State. Thus, the OLS cannot quantify the overall impact of the bill on State and local revenues due to an absence of necessary data and a changing landscape in the rental of these transient accommodations.

Nevertheless, as an example, publicly reported information (<https://www.nj.com>, 5/8/2018) references an announcement made by the online marketplace and hospitality service, Airbnb, which stated that 8,100 active hosts in New Jersey earned roughly \$7,300 in extra income. Based on these factors, annual earnings for all New Jersey hosts would be roughly \$59.1 million on an annual basis. Had these transient accommodations been taxable, combined revenue from the State sales and use tax and the State hotel and motel occupancy fee would have yielded approximately \$6.9 million. The OLS notes that New Jerseyans who offer their transient accommodations through Airbnb and other online marketplaces represent but a portion of those short-term rentals which would be considered taxable transient accommodations. Thus, the \$6.9 million in revenue attributable to taxing transient accommodations listed with Airbnb likely represents a lower amount than total revenues that could be anticipated.

Moreover, the OLS notes that a greater portion of the State's tourism lodging industry includes furnished or unfurnished private residential properties provided through a real estate broker, which are not subject to taxation pursuant to the bill. The OLS is unable to determine the number of rental properties which would otherwise be considered transient accommodations pursuant to the bill, absent being facilitated through a real estate broker. The OLS cannot predict the number of lessors of transient accommodations who may instead choose to list with a real estate broker as part of certain tax planning measures upon enactment of the bill.

*Section: Revenue, Finance and Appropriations*  
*Analyst: Jordan M. DiGiovanni*  
*Associate Fiscal Analyst*  
*Approved: Frank W. Haines III*  
*Legislative Budget and Finance Officer*

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

# SENATE, No. 749

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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

6  
7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:

9  
10 1. Section 84 of P.L.2015, c.19 (C.5:10A-84) is amended to  
11 read as follows:

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

19

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

31  
32 3. Section 3 of P.L.2007, c.30 (C.34:1B-192) is amended to  
33 read as follows:

34 3. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13

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

16 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30

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

33 1. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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



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

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

12 (cf: P.L.1991, c.376, s.4)

13

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

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

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

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

43

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

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

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

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

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

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

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

38

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

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

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

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

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

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

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

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

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

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

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

38

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

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

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

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

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

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

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

31

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

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

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

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

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

12 (cf: P.L.2003, c.114, s.5)

13

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

16 3. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 "Predominantly tourism related retail receipts" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

45

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (1) The term "seller" includes:

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

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

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

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

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

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

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

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

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

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

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

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

37 (j) "Hotel" means a building or portion of it which is regularly  
38 used and kept open as such for the lodging of guests. The term  
39 "hotel" includes an apartment hotel, a motel, boarding house or  
40 club, whether or not meals are served, but does not include a  
41 transient accommodation.

42 (k) "Occupancy" means the use or possession or the right to the  
43 use or possession, of any room in a hotel or transient  
44 accommodation.

45 (l) "Occupant" means a person who, for a consideration, uses,  
46 possesses, or has the right to use or possess, any room in a hotel or  
47 transient accommodation under any lease, concession, permit, right  
48 of access, license to use or other agreement, or otherwise.

- 1 (m) "Permanent resident" means any occupant of any room or  
2 rooms in a hotel or transient accommodation for at least 90  
3 consecutive days shall be considered a permanent resident with  
4 regard to the period of such occupancy.
- 5 (n) "Room" means any room or rooms of any kind in any part or  
6 portion of a hotel or transient accommodation, which is available  
7 for or let out for any purpose other than a place of assembly.
- 8 (o) "Admission charge" means the amount paid for admission,  
9 including any service charge and any charge for entertainment or  
10 amusement or for the use of facilities therefor.
- 11 (p) "Amusement charge" means any admission charge, dues or  
12 charge of a roof garden, cabaret or other similar place.
- 13 (q) "Charge of a roof garden, cabaret or other similar place"  
14 means any charge made for admission, refreshment, service, or  
15 merchandise at a roof garden, cabaret or other similar place.
- 16 (r) "Dramatic or musical arts admission charge" means any  
17 admission charge paid for admission to a theater, opera house,  
18 concert hall or other hall or place of assembly for a live, dramatic,  
19 choreographic or musical performance.
- 20 (s) "Lessor" means any person who is the owner, licensee, or  
21 lessee of any premises, tangible personal property or a specified  
22 digital product which the person leases, subleases, or grants a  
23 license to use to other persons.
- 24 (t) "Place of amusement" means any place where any facilities  
25 for entertainment, amusement, or sports are provided.
- 26 (u) "Casual sale" means an isolated or occasional sale of an item  
27 of tangible personal property or a specified digital product by a  
28 person who is not regularly engaged in the business of making retail  
29 sales of such property or product where the item of tangible  
30 personal property or the specified digital product was obtained by  
31 the person making the sale, through purchase or otherwise, for the  
32 person's own use.
- 33 (v) "Motor vehicle" includes all vehicles propelled otherwise  
34 than by muscular power (excepting such vehicles as run only upon  
35 rails or tracks), trailers, semitrailers, house trailers, or any other  
36 type of vehicle drawn by a motor-driven vehicle, and motorcycles,  
37 designed for operation on the public highways.
- 38 (w) "Persons required to collect tax" or "persons required to  
39 collect any tax imposed by this act" includes: every seller of  
40 tangible personal property, specified digital products or services;  
41 every recipient of amusement charges; every operator of a hotel or  
42 transient accommodation; every seller of a telecommunications  
43 service; every recipient of initiation fees, membership fees or dues  
44 for access to or use of the property or facilities of a health and  
45 fitness, athletic, sporting or shopping club or organization; and  
46 every recipient of charges for parking, storing or garaging a motor  
47 vehicle. Said terms shall also include any officer or employee of a  
48 corporation or of a dissolved corporation who as such officer or

1 employee is under a duty to act for such corporation in complying  
2 with any requirement of this act and any member of a partnership.

3 (x) "Customer" includes: every purchaser of tangible personal  
4 property, specified digital products or services; every patron paying  
5 or liable for the payment of any amusement charge; every occupant  
6 of a room or rooms in a hotel or transient accommodation; every  
7 person paying charges in the nature of initiation fees, membership  
8 fees or dues for access to or use of the property or facilities of a  
9 health and fitness, athletic, sporting or shopping club or  
10 organization; and every purchaser of parking, storage or garaging a  
11 motor vehicle.

12 (y) "Property and services the use of which is subject to tax"  
13 includes: (1) all property sold to a person within the State, whether  
14 or not the sale is made within the State, the use of which property is  
15 subject to tax under section 6 or will become subject to tax when  
16 such property is received by or comes into the possession or control  
17 of such person within the State; (2) all services rendered to a person  
18 within the State, whether or not such services are performed within  
19 the State, upon tangible personal property or a specified digital  
20 product the use of which is subject to tax under section 6 or will  
21 become subject to tax when such property or product is distributed  
22 within the State or is received by or comes into possession or  
23 control of such person within the State; (3) intrastate, interstate, or  
24 international telecommunications sourced to this State pursuant to  
25 section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by  
26 amendment, P.L.1995, c.184); (5) energy sold, exchanged or  
27 delivered in this State for use in this State; (6) utility service sold,  
28 exchanged or delivered in this State for use in this State; (7) mail  
29 processing services in connection with printed advertising material  
30 distributed in this State; (8) (Deleted by amendment, P.L.2005,  
31 c.126); and (9) services the benefit of which are received in this  
32 State.

33 (z) "Director" means the Director of the Division of Taxation in  
34 the State Department of the Treasury, or any officer, employee or  
35 agency of the Division of Taxation in the Department of the  
36 Treasury duly authorized by the director (directly, or indirectly by  
37 one or more redelegations of authority) to perform the functions  
38 mentioned or described in this act.

39 (aa) "Lease or rental" means any transfer of possession or control  
40 of tangible personal property for a fixed or indeterminate term for  
41 consideration. A "lease or rental" may include future options to  
42 purchase or extend.

43 (1) "Lease or rental" does not include:

44 (A) A transfer of possession or control of property under a  
45 security agreement or deferred payment plan that requires the  
46 transfer of title upon completion of the required payments;

47 (B) A transfer of possession or control of property under an  
48 agreement that requires the transfer of title upon completion of

1 required payments and payment of an option price does not exceed  
2 the greater of \$100 or one percent of the total required payments; or

3 (C) Providing tangible personal property or a specified digital  
4 product along with an operator for a fixed or indeterminate period  
5 of time. A condition of this exclusion is that the operator is  
6 necessary for the equipment to perform as designed. For the  
7 purpose of this subparagraph, an operator must do more than  
8 maintain, inspect, or set-up the tangible personal property or  
9 specified digital product.

10 (2) "Lease or rental" does include agreements covering motor  
11 vehicles and trailers where the amount of consideration may be  
12 increased or decreased by reference to the amount realized upon  
13 sale or disposition of the property as defined in 26 U.S.C.  
14 s.7701(h)(1).

15 (3) The definition of "lease or rental" provided in this subsection  
16 shall be used for the purposes of this act regardless of whether a  
17 transaction is characterized as a lease or rental under generally  
18 accepted accounting principles, the federal Internal Revenue Code  
19 or other provisions of federal, state or local law.

20 (bb) (Deleted by amendment, P.L.2005, c.126).

21 (cc) "Telecommunications service" means the electronic  
22 transmission, conveyance, or routing of voice, data, audio, video, or  
23 any other information or signals to a point, or between or among  
24 points.

25 "Telecommunications service" shall include such transmission,  
26 conveyance, or routing in which computer processing applications  
27 are used to act on the form, code, or protocol of the content for  
28 purposes of transmission, conveyance, or routing without regard to  
29 whether such service is referred to as voice over Internet protocol  
30 services or is classified by the Federal Communications  
31 Commission as enhanced or value added.

32 "Telecommunications service" shall not include:

33 (1) (Deleted by amendment, P.L.2008, c.123);

34 (2) (Deleted by amendment, P.L.2008, c.123);

35 (3) (Deleted by amendment, P.L.2008, c.123);

36 (4) (Deleted by amendment, P.L.2008, c.123);

37 (5) (Deleted by amendment, P.L.2008, c.123);

38 (6) (Deleted by amendment, P.L.2008, c.123);

39 (7) data processing and information services that allow data to  
40 be generated, acquired, stored, processed, or retrieved and delivered  
41 by an electronic transmission to a purchaser where such purchaser's  
42 primary purpose for the underlying transaction is the processed data  
43 or information;

44 (8) installation or maintenance of wiring or equipment on a  
45 customer's premises;

46 (9) tangible personal property;

47 (10) advertising, including but not limited to directory  
48 advertising;



- 1 (11) billing and collection services provided to third parties;  
2 (12) internet access service;  
3 (13) radio and television audio and video programming services,  
4 regardless of the medium, including the furnishing of transmission,  
5 conveyance, and routing of such services by the programming  
6 service provider. Radio and television audio and video  
7 programming services shall include but not be limited to cable  
8 service as defined in section 47 U.S.C. s.522(6) and audio and video  
9 programming services delivered by commercial mobile radio  
10 service providers, as defined in section 47 C.F.R. 20.3;  
11 (14) ancillary services; or  
12 (15) digital products delivered electronically, including but not  
13 limited to software, music, video, reading materials, or ringtones.  
14 For the purposes of this subsection:  
15 "ancillary service" means a service that is associated with or  
16 incidental to the provision of telecommunications services,  
17 including but not limited to detailed telecommunications billing,  
18 directory assistance, vertical service, and voice mail service;  
19 "conference bridging service" means an ancillary service that  
20 links two or more participants of an audio or video conference call  
21 and may include the provision of a telephone number. Conference  
22 bridging service does not include the telecommunications services  
23 used to reach the conference bridge;  
24 "detailed telecommunications billing service" means an ancillary  
25 service of separately stating information pertaining to individual  
26 calls on a customer's billing statement;  
27 "directory assistance" means an ancillary service of providing  
28 telephone number information or address information or both;  
29 "vertical service" means an ancillary service that is offered in  
30 connection with one or more telecommunications services, which  
31 offers advanced calling features that allow customers to identify  
32 callers and to manage multiple calls and call connections, including  
33 conference bridging services; and  
34 "voice mail service" means an ancillary service that enables the  
35 customer to store, send, or receive recorded messages. Voice mail  
36 service does not include any vertical service that a customer may be  
37 required to have to utilize the voice mail service.  
38 (dd) (1) "Intrastate telecommunications" means a  
39 telecommunications service that originates in one United States  
40 state or a United States territory or possession or federal district,  
41 and terminates in the same United States state or United States  
42 territory or possession or federal district.  
43 (2) "Interstate telecommunications" means a  
44 telecommunications service that originates in one United States  
45 state or a United States territory or possession or federal district,  
46 and terminates in a different United States state or United States  
47 territory or possession or federal district.

1 (3) "International telecommunications" means a  
2 telecommunications service that originates or terminates in the  
3 United States and terminates or originates outside the United States,  
4 respectively. "United States" includes the District of Columbia or a  
5 United States territory or possession.

6 (ee) (Deleted by amendment, P.L.2008, c.123)

7 (ff) "Natural gas" means any gaseous fuel distributed through a  
8 pipeline system.

9 (gg) "Energy" means natural gas or electricity.

10 (hh) "Utility service" means the transportation or transmission of  
11 natural gas or electricity by means of mains, wires, lines or pipes, to  
12 users or customers.

13 (ii) "Self-generation unit" means a facility located on the user's  
14 property, or on property purchased or leased from the user by the  
15 person owning the self-generation unit and such property is  
16 contiguous to the user's property, which generates electricity to be  
17 used only by that user on the user's property and is not transported  
18 to the user over wires that cross a property line or public  
19 thoroughfare unless the property line or public thoroughfare merely  
20 bifurcates the user's or self-generation unit owner's otherwise  
21 contiguous property.

22 (jj) "Co-generation facility" means a facility the primary purpose  
23 of which is the sequential production of electricity and steam or  
24 other forms of useful energy which are used for industrial or  
25 commercial heating or cooling purposes and which is designated by  
26 the Federal Energy Regulatory Commission, or its successor, as a  
27 "qualifying facility" pursuant to the provisions of the "Public Utility  
28 Regulatory Policies Act of 1978," Pub.L.95-617.

29 (kk) "Non-utility" means a company engaged in the sale,  
30 exchange or transfer of natural gas that was not subject to the  
31 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to  
32 December 31, 1997.

33 (ll) "Pre-paid calling service" means the right to access  
34 exclusively telecommunications services, which shall be paid for in  
35 advance and which enables the origination of calls using an access  
36 number or authorization code, whether manually or electronically  
37 dialed, and that is sold in predetermined units or dollars of which  
38 the number declines with use in a known amount.

39 (mm) "Mobile telecommunications service" means the same as  
40 that term is defined in the federal "Mobile Telecommunications  
41 Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).

42 (nn) (Deleted by amendment, P.L.2008, c.123)

43 (oo) (1) "Sales price" is the measure subject to sales tax and  
44 means the total amount of consideration, including cash, credit,  
45 property, and services, for which personal property or services are  
46 sold, leased, or rented, valued in money, whether received in money  
47 or otherwise, without any deduction for the following:

48 (A) The seller's cost of the property sold;

- 1 (B) The cost of materials used, labor or service cost, interest,  
2 losses, all costs of transportation to the seller, all taxes imposed on  
3 the seller, and any other expense of the seller;
- 4 (C) Charges by the seller for any services necessary to complete  
5 the sale;
- 6 (D) Delivery charges;
- 7 (E) (Deleted by amendment, P.L.2011, c.49); and
- 8 (F) (Deleted by amendment, P.L.2008, c.123).
- 9 (2) "Sales price" does not include:
- 10 (A) Discounts, including cash, term, or coupons that are not  
11 reimbursed by a third party, that are allowed by a seller and taken  
12 by a purchaser on a sale;
- 13 (B) Interest, financing, and carrying charges from credit  
14 extended on the sale of personal property or services, if the amount  
15 is separately stated on the invoice, bill of sale, or similar document  
16 given to the purchaser;
- 17 (C) Any taxes legally imposed directly on the consumer that are  
18 separately stated on the invoice, bill of sale, or similar document  
19 given to the purchaser;
- 20 (D) The amount of sales price for which food stamps have been  
21 properly tendered in full or part payment pursuant to the federal  
22 Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or
- 23 (E) Credit for any trade-in of property of the same kind accepted  
24 in part payment and intended for resale if the amount is separately  
25 stated on the invoice, bill of sale, or similar document given to the  
26 purchaser.
- 27 (3) "Sales price" includes consideration received by the seller  
28 from third parties if:
- 29 (A) The seller actually receives consideration from a party other  
30 than the purchaser and the consideration is directly related to a price  
31 reduction or discount on the sale;
- 32 (B) The seller has an obligation to pass the price reduction or  
33 discount through to the purchaser;
- 34 (C) The amount of the consideration attributable to the sale is  
35 fixed and determinable by the seller at the time of the sale of the  
36 item to the purchaser; and
- 37 (D) One of the following criteria is met:
- 38 (i) the purchaser presents a coupon, certificate, or other  
39 documentation to the seller to claim a price reduction or discount  
40 where the coupon, certificate, or documentation is authorized,  
41 distributed, or granted by a third party with the understanding that  
42 the third party will reimburse any seller to whom the coupon,  
43 certificate, or documentation is presented;
- 44 (ii) the purchaser identifies himself to the seller as a member of a  
45 group or organization entitled to a price reduction or discount;  
46 provided however, that a preferred customer card that is available to  
47 any patron does not constitute membership in such a group; or

1 (iii) the price reduction or discount is identified as a third party  
2 price reduction or discount on the invoice received by the purchaser  
3 or on a coupon, certificate, or other documentation presented by the  
4 purchaser.

5 (4) In the case of a bundled transaction that includes a  
6 telecommunications service, an ancillary service, internet access, or  
7 an audio or video programming service, if the price is attributable to  
8 products that are taxable and products that are nontaxable, the  
9 portion of the price attributable to the nontaxable products is  
10 subject to tax unless the provider can identify by reasonable and  
11 verifiable standards such portion from its books and records that are  
12 kept in the regular course of business for other purposes, including  
13 non-tax purposes.

14 (pp) "Purchase price" means the measure subject to use tax and  
15 has the same meaning as "sales price."

16 (qq) "Sales tax" means the tax imposed on certain transactions  
17 pursuant to the provisions of the "Sales and Use Tax Act,"  
18 P.L.1966, c.30 (C.54:32B-1 et seq.).

19 (rr) "Delivery charges" means charges by the seller for  
20 preparation and delivery to a location designated by the purchaser  
21 of personal property or services including, but not limited to,  
22 transportation, shipping, postage, handling, crating, and packing. If  
23 a shipment includes both exempt and taxable property, the seller  
24 should allocate the delivery charge by using: (1) a percentage based  
25 on the total sales price of the taxable property compared to the total  
26 sales price of all property in the shipment; or (2) a percentage based  
27 on the total weight of the taxable property compared to the total  
28 weight of all property in the shipment. The seller shall tax the  
29 percentage of the delivery charge allocated to the taxable property  
30 but is not required to tax the percentage allocated to the exempt  
31 property.

32 (ss) "Direct mail" means printed material delivered or distributed  
33 by United States mail or other delivery service to a mass audience  
34 or to addresses on a mailing list provided by the purchaser or at the  
35 direction of the purchaser in cases in which the cost of the items are  
36 not billed directly to the recipients. "Direct mail" includes tangible  
37 personal property supplied directly or indirectly by the purchaser to  
38 the direct mail seller for inclusion in the package containing the  
39 printed material. "Direct mail" does not include multiple items of  
40 printed material delivered to a single address.

41 (tt) "Streamlined Sales and Use Tax Agreement" means the  
42 agreement entered into as governed and authorized by the "Uniform  
43 Sales and Use Tax Administration Act," P.L.2001, c.431  
44 (C.54:32B-44 et seq.).

45 (uu) "Alcoholic beverages" means beverages that are suitable for  
46 human consumption and contain one-half of one percent or more of  
47 alcohol by volume.

48 (vv) (Deleted by amendment, P.L.2011, c.49)

1 (ww) "Landscaping services" means services that result in a  
2 capital improvement to land other than structures of any kind  
3 whatsoever, such as: seeding, sodding or grass plugging of new  
4 lawns; planting trees, shrubs, hedges, plants; and clearing and  
5 filling land.

6 (xx) "Investigation and security services" means:

7 (1) investigation and detective services, including detective  
8 agencies and private investigators, and fingerprint, polygraph,  
9 missing person tracing and skip tracing services;

10 (2) security guard and patrol services, including bodyguard and  
11 personal protection, guard dog, guard, patrol, and security services;

12 (3) armored car services; and

13 (4) security systems services, including security, burglar, and  
14 fire alarm installation, repair or monitoring services.

15 (yy) "Information services" means the furnishing of information  
16 of any kind, which has been collected, compiled, or analyzed by the  
17 seller, and provided through any means or method, other than  
18 personal or individual information which is not incorporated into  
19 reports furnished to other people.

20 (zz) "Specified digital product" means an electronically  
21 transferred digital audio-visual work, digital audio work, or digital  
22 book; provided however, that a digital code which provides a  
23 purchaser with a right to obtain the product shall be treated in the  
24 same manner as a specified digital product.

25 (aaa) "Digital audio-visual work" means a series of related  
26 images which, when shown in succession, impart an impression of  
27 motion, together with accompanying sounds, if any.

28 (bbb) "Digital audio work" means a work that results from the  
29 fixation of a series of musical, spoken, or other sounds, including a  
30 ringtone.

31 (ccc) "Digital book" means a work that is generally recognized in  
32 the ordinary and usual sense as a book.

33 (ddd) "Transferred electronically" means obtained by the  
34 purchaser by means other than tangible storage media.

35 (eee) "Ringtone" means a digitized sound file that is downloaded  
36 onto a device and that may be used to alert the purchaser with  
37 respect to a communication.

38 (fff) "Residence" means a house, condominium, or other  
39 residential dwelling unit in a building or structure or part of a  
40 building or structure that is designed, constructed, leased, rented, let  
41 or hired out, or otherwise made available for use as a residence.

42 (ggg) "Transient accommodation" means a room, group of  
43 rooms, or other living or sleeping space for the lodging of  
44 occupants, including but not limited to residences or buildings used  
45 as residences. "Transient accommodation" does not include: a hotel  
46 or hotel room; a room, group of rooms, or other living or sleeping  
47 space used as a place of assembly; a dormitory or other similar  
48 residential facility of an elementary or secondary school or a

1 college or university; a hospital, nursing home, or other similar  
2 residential facility of a provider of services for the care, support and  
3 treatment of individuals that is licensed by the State; a campsite,  
4 cabin, lean-to, or other similar residential facility of a campground  
5 or an adult or youth camp; or a furnished or unfurnished private  
6 residential property, including but not limited to condominiums,  
7 bungalows, single-family homes and similar living units, where no  
8 maid service, room service, linen changing service or other  
9 common hotel services are made available by the lessor and where  
10 the keys to the furnished or unfurnished private residential property,  
11 whether a physical key, access to a keyless locking mechanism, or  
12 other means of physical ingress to the furnished or unfurnished  
13 private residential property, are provided to the lessee at the  
14 location of an offsite real estate broker licensed by the New Jersey  
15 Real Estate Commission pursuant to R.S.45:15-1 et seq.

16 (hhh) “Transient space marketplace” means an online  
17 marketplace through which a person may offer transient  
18 accommodations or hotel rooms to individuals. A “transient space  
19 marketplace” allows transient accommodations or hotel rooms to be  
20 advertised or listed through an online marketplace and provides a  
21 means for a customer to arrange for the occupancy of the transient  
22 accommodation or hotel room in exchange for consideration  
23 directly through the online marketplace.

24 (cf: P.L.2014, c.13, s.4)

25

26 20. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read  
27 as follows:

28 3. There is imposed and there shall be paid a tax of 7% on or  
29 before December 31, 2016, 6.875% on and after January 1, 2017 but  
30 before January 1, 2018, and 6.625% on and after January 1, 2018  
31 upon:

32 (a) The receipts from every retail sale of tangible personal  
33 property or a specified digital product for permanent use or less  
34 than permanent use, and regardless of whether continued payment is  
35 required, except as otherwise provided in P.L.1966, c.30 (C.54:32B-  
36 1 et seq.).

37 (b) The receipts from every sale, except for resale, of the  
38 following services:

39 (1) Producing, fabricating, processing, printing, or imprinting  
40 tangible personal property or a specified digital product, performed  
41 for a person who directly or indirectly furnishes the tangible  
42 personal property or specified digital product, not purchased by the  
43 person for resale, upon which these services are performed.

44 (2) Installing tangible personal property or a specified digital  
45 product, or maintaining, servicing, repairing tangible personal  
46 property or a specified digital product not held for sale in the  
47 regular course of business, whether or not the services are  
48 performed directly or by means of coin-operated equipment or by

1 any other means, and whether or not any tangible personal property  
2 or specified digital product is transferred in conjunction therewith,  
3 except (i) such services rendered by an individual who is engaged  
4 directly by a private homeowner or lessee in or about his residence  
5 and who is not in a regular trade or business offering his services to  
6 the public, (ii) such services rendered with respect to personal  
7 property exempt from taxation hereunder pursuant to section 13 of  
8 P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment,  
9 P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning,  
10 tailoring, weaving, or pressing clothing, and shoe repairing and  
11 shoeshining, and (v) services rendered in installing property which,  
12 when installed, will constitute an addition or capital improvement to  
13 real property, property or land, other than landscaping services and  
14 other than installing carpeting and other flooring.

15 (3) Storing all tangible personal property not held for sale in the  
16 regular course of business; the rental of safe deposit boxes or  
17 similar space; and the furnishing of space for storage of tangible  
18 personal property by a person engaged in the business of furnishing  
19 space for such storage.

20 "Space for storage" means secure areas, such as rooms, units,  
21 compartments, or containers, whether accessible from outside or  
22 from within a building, that are designated for the use of a customer  
23 and wherein the customer has free access within reasonable  
24 business hours, or upon reasonable notice to the furnisher of space  
25 for storage, to store and retrieve property. Space for storage shall  
26 not include the lease or rental of an entire building, such as a  
27 warehouse or airplane hangar.

28 (4) Maintaining, servicing, or repairing real property, other than  
29 a residential heating system unit serving not more than three  
30 families living independently of each other and doing their cooking  
31 on the premises, whether the services are performed in or outside of  
32 a building, as distinguished from adding to or improving the real  
33 property by a capital improvement, but excluding services rendered  
34 by an individual who is not in a regular trade or business offering  
35 his services to the public, and excluding garbage removal and sewer  
36 services performed on a regular contractual basis for a term not less  
37 than 30 days.

38 (5) Mail processing services for printed advertising material,  
39 except for mail processing services in connection with distribution  
40 of printed advertising material to out-of-State recipients.

41 (6) (Deleted by amendment, P.L.1995, c.184)

42 (7) Utility service provided to persons in this State, any right or  
43 power over which is exercised in this State.

44 (8) Tanning services, including the application of a temporary  
45 tan provided by any means.

46 (9) Massage, bodywork, or somatic services, except such  
47 services provided pursuant to a doctor's prescription.

1 (10) Tattooing, including all permanent body art and permanent  
2 cosmetic make-up applications, except such services provided  
3 pursuant to a doctor's prescription in conjunction with  
4 reconstructive breast surgery.

5 (11) Investigation and security services.

6 (12) Information services.

7 (13) (Deleted by amendment, P.L.2017, c.27)

8 (14) Telephone answering services.

9 (15) Radio subscription services.

10 Wages, salaries, and other compensation paid by an employer to  
11 an employee for performing as an employee the services described  
12 in this subsection are not receipts subject to the taxes imposed  
13 under subsection (b) of this section.

14 Services otherwise taxable under paragraph (1) or (2) of  
15 subsection (b) of this section are not subject to the taxes imposed  
16 under this subsection, where the tangible personal property or  
17 specified digital product upon which the services were performed is  
18 delivered to the purchaser outside this State for use outside this  
19 State.

20 (c) (1) Receipts from the sale of prepared food in or by  
21 restaurants, taverns, or other establishments in this State, or by  
22 caterers, including in the amount of such receipts any cover,  
23 minimum, entertainment, or other charge made to patrons or  
24 customers, except for meals especially prepared for and delivered to  
25 homebound elderly, age 60 or older, and to persons with  
26 disabilities, or meals prepared and served at a group-sitting at a  
27 location outside of the home to otherwise homebound elderly  
28 persons, age 60 or older, and otherwise homebound persons with  
29 disabilities, as all or part of any food service project funded in  
30 whole or in part by government or as part of a private, nonprofit  
31 food service project available to all such elderly or persons with  
32 disabilities residing within an area of service designated by the  
33 private nonprofit organization; and

34 (2) Receipts from sales of food and beverages sold through  
35 vending machines, at the wholesale price of such sale, which shall  
36 be defined as 70% of the retail vending machine selling price,  
37 except sales of milk, which shall not be taxed. Nothing herein  
38 contained shall affect other sales through coin-operated vending  
39 machines taxable pursuant to subsection (a) above or the exemption  
40 thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

41 The tax imposed by subsection (c) of this section shall not apply  
42 to food or drink which is sold to an airline for consumption while in  
43 flight.

44 (3) For the purposes of this subsection:

45 "Food and beverages sold through vending machines" means  
46 food and beverages dispensed from a machine or other mechanical  
47 device that accepts payment; and

48 "Prepared food" means:



- 1 (i) A. food sold in a heated state or heated by the seller; or  
2 B. two or more food ingredients mixed or combined by the  
3 seller for sale as a single item, but not including food that is only  
4 cut, repackaged, or pasteurized by the seller, and eggs, fish, meat,  
5 poultry, and foods containing these raw animal foods requiring  
6 cooking by the consumer as recommended by the Food and Drug  
7 Administration in Chapter 3, part 401.11 of its Food Code so as to  
8 prevent food borne illnesses; or  
9 C. food sold with eating utensils provided by the seller,  
10 including plates, knives, forks, spoons, glasses, cups, napkins, or  
11 straws. A plate does not include a container or packaging used to  
12 transport the food;  
13 provided however, that  
14 (ii) "prepared food" does not include the following sold without  
15 eating utensils:  
16 A. food sold by a seller whose proper primary NAICS  
17 classification is manufacturing in section 311, except subsector  
18 3118 (bakeries);  
19 B. food sold in an unheated state by weight or volume as a  
20 single item; or  
21 C. bakery items, including bread, rolls, buns, biscuits, bagels,  
22 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,  
23 muffins, bars, cookies, and tortillas.  
24 (d) The rent for every occupancy of a room or rooms in a hotel  
25 or transient accommodation in this State, except that the tax shall  
26 not be imposed upon a permanent resident.  
27 (e) (1) Any admission charge to or for the use of any place of  
28 amusement in the State, including charges for admission to race  
29 tracks, baseball, football, basketball or exhibitions, dramatic or  
30 musical arts performances, motion picture theaters, except charges  
31 for admission to boxing, wrestling, kick boxing, or combative  
32 sports exhibitions, events, performances, or contests which charges  
33 are taxed under any other law of this State or under section 20 of  
34 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for  
35 admission to, or use of, facilities for sporting activities in which the  
36 patron is to be a participant, such as bowling alleys and swimming  
37 pools. For any person having the permanent use or possession of a  
38 box or seat or lease or a license, other than a season ticket, for the  
39 use of a box or seat at a place of amusement, the tax shall be upon  
40 the amount for which a similar box or seat is sold for each  
41 performance or exhibition at which the box or seat is used or  
42 reserved by the holder, licensee, or lessee, and shall be paid by the  
43 holder, licensee, or lessee.  
44 (2) The amount paid as charge of a roof garden, cabaret, or other  
45 similar place in this State, to the extent that a tax upon these  
46 charges has not been paid pursuant to subsection (c) hereof.  
47 (f) (1) The receipts from every sale, except for resale, of  
48 intrastate, interstate, or international telecommunications services

1 and ancillary services sourced to this State in accordance with  
2 section 29 of P.L.2005, c.126 (C.54:32B-3.4).

3 (2) (Deleted by amendment, P.L.2008, c.123)

4 (g) (Deleted by amendment, P.L.2008, c.123)

5 (h) Charges in the nature of initiation fees, membership fees or  
6 dues for access to or use of the property or facilities of a health and  
7 fitness, athletic, sporting, or shopping club or organization in this  
8 State, except for: (1) membership in a club or organization whose  
9 members are predominantly age 18 or under; and (2) charges in the  
10 nature of membership fees or dues for access to or use of the  
11 property or facilities of a health and fitness, athletic, sporting, or  
12 shopping club or organization that is exempt from taxation pursuant  
13 to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30  
14 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph  
15 (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30  
16 (C.54:32B-9) and that has complied with subsection (d) of section 9  
17 of P.L.1966, c.30 (C.54:32B-9).

18 (i) The receipts from parking, storing, or garaging a motor  
19 vehicle, excluding charges for the following: residential parking;  
20 employee parking, when provided by an employer or at a facility  
21 owned or operated by the employer; municipal parking, storing, or  
22 garaging; receipts from charges or fees imposed pursuant to section  
23 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement  
24 between the Casino Reinvestment Development Authority and a  
25 casino operator in effect on the date of enactment of P.L.2007,  
26 c.105; and receipts from parking, storing, or garaging a motor  
27 vehicle subject to tax pursuant to any other law or ordinance.

28 For the purposes of this subsection, "municipal parking, storing,  
29 or garaging" means any motor vehicle parking, storing, or garaging  
30 provided by a municipality or county, or a parking authority  
31 thereof.

32 (cf: P.L.2017, c.27, s.1)

33

34 21. Section 9 of P.L.1966, c.30 (C.54:32B-9) is amended to read  
35 as follows:

36 9. (a) Except as to motor vehicles sold by any of the following,  
37 any sale, service or amusement charge by or to any of the following  
38 or any use or occupancy by any of the following shall not be subject  
39 to the sales and use taxes imposed under this act:

40 (1) The State of New Jersey, or any of its agencies,  
41 instrumentalities, public authorities, public corporations (including  
42 a public corporation created pursuant to agreement or compact with  
43 another state) or political subdivisions where it is the purchaser,  
44 user or consumer, or where it is a seller of services or property of a  
45 kind not ordinarily sold by private persons;

46 (2) The United States of America, and any of its agencies and  
47 instrumentalities, insofar as it is immune from taxation where it is

1 the purchaser, user or consumer, or where it sells services or  
2 property of a kind not ordinarily sold by private persons;

3 (3) The United Nations or any international organization of  
4 which the United States of America is a member where it is the  
5 purchaser, user or consumer, or where it sells services or property  
6 of a kind not ordinarily sold by private persons.

7 (b) Except as otherwise provided in this section any sale or  
8 amusement charge by or to any of the following or any use or  
9 occupancy by any of the following, where such sale, charge, use or  
10 occupancy is directly related to the purposes for which the  
11 following have been organized, shall not be subject to the sales and  
12 use taxes imposed under this act: a corporation, association, trust,  
13 or community chest, fund or foundation, organized and operated  
14 exclusively (1) for religious, charitable, scientific, testing for public  
15 safety, literary or educational purposes; or (2) for the prevention of  
16 cruelty to children or animals; or (3) as a volunteer fire company,  
17 rescue, ambulance, first aid or emergency company or squad; or (4)  
18 as a National Guard organization, post or association, or as a post or  
19 organization of war veterans, or the Marine Corps League, or as an  
20 auxiliary unit or society of any such post, organization or  
21 association; or (5) as an association of parents and teachers of an  
22 elementary or secondary public or private school exempt under the  
23 provisions of this section. Such a sale, charge, use or occupancy  
24 by, or a sale or charge to, an organization enumerated in this  
25 subsection, shall not be subject to the sales and use taxes only if no  
26 part of the net earnings of the organization inures to the benefit of  
27 any private shareholder or individual, no substantial part of the  
28 activities of the organization is carrying on propaganda, or  
29 otherwise attempting to influence legislation, and the organization  
30 does not participate in, or intervene in (including the publishing or  
31 distributing of statements), any political campaign on behalf of any  
32 candidate for public office.

33 (c) Nothing in this section shall exempt from the taxes imposed  
34 under the "Sales and Use Tax Act":

35 (1) the sale of a motor vehicle by an organization described in  
36 subsection (b) of this section, unless the purchaser is an  
37 organization exempt under this section;

38 (2) retail sales of tangible personal property or specified digital  
39 products by any shop or store operated by an organization described  
40 in subsection (b) of this section, unless the tangible personal  
41 property or specified digital product was received by the  
42 organization as a gift or contribution and the shop or store is one in  
43 which substantially all the work in carrying on the business of the  
44 shop or store is performed for the organization without  
45 compensation and substantially all of the shop's or store's  
46 merchandise has been received by the organization as gifts or  
47 contributions or unless the purchaser is an organization exempt  
48 under this section; or

1 (3) the sale or use of energy or utility service to or by an  
2 organization described in paragraph (1) of subsection (a) or  
3 subsection (b) of this section.

4 (d) Any organization enumerated in subsection (b) of this  
5 section shall not be entitled to an exemption granted pursuant to this  
6 section unless it has complied with such requirements for obtaining  
7 a tax immunity authorization as may be provided in this act.

8 (e) Where any organization described in subsection (b) of this  
9 subsection carries on its activities in furtherance of the purposes for  
10 which it was organized, in premises in which, as part of those  
11 activities, it operates a hotel or transient accommodation,  
12 occupancy of rooms in the premises and rents from those rooms  
13 received by the organization shall not be subject to tax under the  
14 "Sales and Use Tax Act."

15 (f) (1) Except as provided in paragraph (2) of this subsection,  
16 any admissions all of the proceeds of which inure exclusively to the  
17 benefit of the following organizations shall not be subject to any of  
18 the taxes imposed under subsection (e) of section 3 of P.L.1966,  
19 c.30 (C.54:32B-3):

20 (A) an organization described in paragraph (1) of subsection (a)  
21 or subsection (b) of this section;

22 (B) a society or organization conducted for the sole purpose of  
23 maintaining symphony orchestras or operas and receiving  
24 substantial support from voluntary contributions; or

25 (C) (Deleted by amendment, P.L.1999, c.416).

26 (D) a police or fire department of a political subdivision of the  
27 State, or a volunteer fire company, ambulance, first aid, or  
28 emergency company or squad, or exclusively to a retirement,  
29 pension or disability fund for the sole benefit of members of a  
30 police or fire department or to a fund for the heirs of such members.

31 (2) The exemption provided under paragraph (1) of this  
32 subsection shall not apply in the case of admissions to:

33 (A) Any athletic game or exhibition unless the proceeds shall  
34 inure exclusively to the benefit of elementary or secondary schools  
35 or unless in the case of an athletic game between two elementary or  
36 secondary schools, the entire gross proceeds from such game shall  
37 inure to the benefit of one or more organizations described in  
38 subsection (b) of this section;

39 (B) Carnivals, rodeos, or circuses in which any professional  
40 performer or operator participates for compensation;

41 (3) Admission charges for admission to the following places or  
42 events shall not be subject to any of the taxes imposed under  
43 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

44 (A) Any admission to agricultural fairs if no part of the net  
45 earnings thereof inures to the benefit of any stockholders or  
46 members of the association conducting the same; provided the  
47 proceeds therefrom are used exclusively for the improvement,  
48 maintenance and operation of such agricultural fairs.

1 (B) Any admission to a home or garden which is temporarily  
2 open to the general public as a part of a program conducted by a  
3 society or organization to permit the inspection of historical homes  
4 and gardens; provided no part of the net earnings thereof inures to  
5 the benefit of any private stockholder or individual.

6 (C) Any admissions to historic sites, houses and shrines, and  
7 museums conducted in connection therewith, maintained and  
8 operated by a society or organization devoted to the preservation  
9 and maintenance of such historic sites, houses, shrines and  
10 museums; provided no part of the net earnings thereof inures to the  
11 benefit of any private stockholder or individual.

12 (cf: P.L.2011, c.49, s.10)

13

14 22. Section 1 of P.L.2003, c.114 (C.54:32D-1) is amended to  
15 read as follows:

16 1. a. In addition to any other tax, assessment or use fee  
17 authorized by law, there is imposed and shall be paid a hotel and  
18 motel occupancy fee of 7% for occupancies on and after August 1,  
19 2003 but before July 1, 2004, and of 5% for occupancies on and  
20 after July 1, 2004, upon the rent for every occupancy of a room or  
21 rooms in a hotel or transient accommodation subject to taxation  
22 pursuant to subsection (d) of section 3 of P.L.1966, c.30 (C:54:32B-  
23 3), which every person required to collect tax shall collect from the  
24 customer when collecting the rent to which it applies; provided  
25 however, that on and after the tenth day following a certification by  
26 the Director of the Division of Budget and Accounting in the  
27 Department of the Treasury pursuant to subsection d. of section 2 of  
28 P.L.2003, c.114 (C.54:32D-2), no such fee shall be paid or  
29 collected; and provided further that:

30 (1) the combined rates of the fee imposed under this section,  
31 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,  
32 c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947,  
33 c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of 14% on  
34 or before December 31, 2016, 13.875% on and after January 1,  
35 2017 but before January 1, 2018, and 13.625% on and after January  
36 1, 2018, and to the extent that the total combined rate of taxation for  
37 the listed fees and taxes would exceed 14% on or before December  
38 31, 2016, 13.875% on and after January 1, 2017 but before January  
39 1, 2018, and 13.625% on and after January 1, 2018, the fee imposed  
40 under this section shall be reduced so that the total combined rate  
41 equals 14% on or before December 31, 2016, 13.875% on and after  
42 January 1, 2017 but before January 1, 2018, and 13.625% on and  
43 after January 1, 2018;

44 (2) the combined rates of the fee imposed under this section,  
45 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,  
46 c.30 (C.54:32B-1 et seq.), plus any tax and assessment imposed  
47 under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a  
48 total rate of 14% on or before December 31, 2016, 13.875% on and

1 after January 1, 2017 but before January 1, 2018, and 13.625% on  
2 and after January 1, 2018, and to the extent that the total combined  
3 rate of taxation for the listed fees and taxes would exceed 14% on  
4 or before December 31, 2016, 13.875% on and after January 1,  
5 2017 but before January 1, 2018, and 13.625% on and after January  
6 1, 2018, the fee imposed under this section shall be reduced so that  
7 the total combined rate equals 14% on or before December 31,  
8 2016, 13.875% on and after January 1, 2017 but before January 1,  
9 2018, and 13.625% on and after January 1, 2018; and

10 (3) the fee imposed under this section shall be at the rate of 1%  
11 in a city in which the tax authorized under P.L.1981,  
12 c.77 (C.40:48E-1 et seq.) is imposed.

13 b. The hotel and motel occupancy fee imposed by subsection a.  
14 of this section shall not be imposed on the rent for an occupancy if  
15 the purchaser, user or consumer is an entity exempt from the tax  
16 imposed on an occupancy under the "Sales and Use Tax Act"  
17 pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-  
18 9).

19 c. Terms used in this section shall have the meaning given  
20 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).  
21 (cf: P.L.2016, c.57, s.6)

22

23 23. Section 2 of P.L.2003, c.114 (C.54:32D-2) is amended to  
24 read as follows:

25 2. a. The Director of the Division of Taxation shall collect and  
26 administer the fee imposed pursuant to section 1 of P.L.2003,  
27 c.114 (C.54:32D-1). The fees collected shall be deposited to the  
28 General Fund, and shall be allocated as follows:

29 (1) of the fees collected for occupancies during State Fiscal  
30 Year 2004: \$16,000,000 shall be allocated for appropriation to the  
31 New Jersey State Council on the Arts for cultural projects;  
32 \$2,700,000 shall be allocated for appropriation to the New Jersey  
33 Historical Commission for the purposes of subsection a. of section 3  
34 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated  
35 for appropriation to the New Jersey Commerce and Economic  
36 Growth Commission for tourism advertising and promotion; and  
37 \$500,000 shall be allocated for appropriation to the New Jersey  
38 Cultural Trust; and

39 (2) of the fees collected for occupancies during State Fiscal  
40 Year 2005 and thereafter: 22.68 percent shall be annually allocated  
41 for appropriation to the New Jersey State Council on the Arts for  
42 cultural projects, provided that the amount allocated shall not be  
43 less than \$22,680,000; 3.84 percent shall be allocated for  
44 appropriation to the New Jersey Historical Commission for the  
45 purposes of subsection a. of section 3 of P.L.1999,  
46 c.131 (C.18A:73-22.3), provided that the amount allocated shall not  
47 be less than \$3,840,000; 12.76 percent shall be allocated for  
48 appropriation to the New Jersey Commerce and Economic Growth

1 Commission for tourism advertising and promotion, provided that  
2 the amount allocated shall not be less than \$12,760,000; and .72  
3 percent shall be allocated for appropriation to the New Jersey  
4 Cultural Trust, provided that the amount allocated shall not be less  
5 than \$720,000.

6 b. (1) In carrying out the provisions of section 1 of P.L.2003,  
7 c.114 (C.54:32D-1) and this section, the director shall have all of  
8 the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et  
9 seq.). The tax shall be filed and paid in a manner prescribed by the  
10 Director of the Division of Taxation. The director shall promulgate  
11 such rules and regulations as the director determines are necessary  
12 to effectuate the provisions of section 1 of P.L.2003,  
13 c.114 (C.54:32D-1) and this section.

14 (2) Each person required to collect the hotel and motel  
15 occupancy fee shall be personally liable for the fee imposed,  
16 collected, or required to be paid, collected, or remitted under  
17 section 1 of P.L.2003, c.114 (C.54:32D-1). Any such person shall  
18 have the same right in respect to collecting the fee from that  
19 person's customer or in respect to non-payment of the fee by the  
20 customer as if the fee were a part of the purchase price of the  
21 occupancy or rent, as the case may be, and payable at the same  
22 time; provided however, that the director shall be joined as a party  
23 in any action or proceeding brought to collect the fee.

24 For purposes of this paragraph, "person" includes: an individual,  
25 partnership, corporation, or an officer, director, stockholder, or  
26 employee of a corporation, or a member or employee of a  
27 partnership, who as such officer, director, stockholder, employee, or  
28 member is under the duty to perform the act in respect of which the  
29 violation occurs.

30 (3) Notwithstanding any other provision of this section to the  
31 contrary, the director may enter into an agreement with the owner  
32 or operator of a transient space marketplace for the purpose of  
33 collection and payment of the fee for transactions solely  
34 consummated through the transient space marketplace. Upon  
35 entering an agreement with the owner or operator of a transient  
36 space marketplace, the director may waive the responsibility of a  
37 person engaged in the business of providing transient  
38 accommodations or hotel rooms to collect and pay the fee. The  
39 owner or operator of the transient space marketplace shall agree to  
40 be personally liable for the collection and payment of the fee on  
41 behalf of a person engaged in the business of providing transient  
42 accommodations or hotel rooms.

43 c. The annual appropriations act for each State Fiscal Year,  
44 commencing with fiscal year 2005, shall appropriate and distribute  
45 during that fiscal year amounts not less than the amounts otherwise  
46 specified for State Fiscal Year 2004 in paragraph (1) of subsection  
47 a. of this section for the purposes specified in paragraph (1) of  
48 subsection a. of this section.

1 d. If the provisions of subsection c. of this section are not met  
2 on the effective date of an annual appropriations act for the State  
3 fiscal year, or if an amendment or supplement to an annual  
4 appropriations act for the State fiscal year should violate the  
5 provisions of subsection c. of this section, the Director of the  
6 Division of Budget and Accounting in the Department of the  
7 Treasury shall, not later than five days after the enactment of the  
8 annual appropriations act, or an amendment or supplement thereto,  
9 that violates the provisions of subsection c. of this section, certify to  
10 the Director of the Division of Taxation that the requirements of  
11 subsection c. of this section have not been met.

12 e. The Director of the Division of Taxation shall, no later than  
13 five days after certification by the Director of the Division of  
14 Budget and Accounting in the Department of the Treasury pursuant  
15 to subsection d. of this section that the provisions of subsection c.  
16 of this section have not been met or have been violated by an  
17 amendment or supplement to the annual appropriations act, notify  
18 each person required to collect tax of the certification and that the  
19 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1)  
20 shall no longer be paid or collected.  
21 (cf: P.L.2007, c.102, s.4)

22  
23 24. (New section) Notwithstanding the provisions of the  
24 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
25 seq.) to the contrary, the Director of the Division of Taxation in the  
26 Department of the Treasury, in consultation with the Director of the  
27 Division of Local Government Services in the Department of  
28 Community Affairs, may adopt immediately upon filing with the  
29 Office of Administrative Law such rules and regulations as the  
30 director determines to be necessary to effectuate the purposes of  
31 P.L. , c. (C. ) (pending before the Legislature as this bill),  
32 which rules and regulations shall be effective for a period not to  
33 exceed 360 days following the effective date of P.L. , c. (C.  
34 ) (pending before the Legislature as this bill) and may thereafter be  
35 amended, adopted, or readopted by the director in accordance with  
36 the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

37  
38 25. This act shall take effect immediately, but sections one  
39 through 23 shall remain inoperative until the first day of the first  
40 full calendar quarter beginning at least 90 days following the date  
41 of enactment.

42  
43  
44 STATEMENT

45  
46 This bill imposes the sales and use tax and the State hotel and  
47 motel occupancy fee on charges for the occupancy of a transient  
48 accommodation in this State, and permits municipalities authorized



1 to impose the Meadowlands regional hotel use assessment, the  
2 sports and entertainment facility tax, the Atlantic City luxury tax,  
3 the Atlantic City promotion fee, the hotel occupancy tax, the  
4 municipal hotel and motel occupancy tax, and the Cape May  
5 County tourism tax and assessment to similarly require the  
6 collection of tax on charges for the occupancy of a transient  
7 accommodation.

8 Under current law, the sales and use tax and the State hotel and  
9 motel occupancy fee are generally imposed on charges for the  
10 occupancy of a room or rooms in a hotel in this State. Current law  
11 also permits certain municipalities to impose, through the adoption  
12 of a municipal ordinance, similar taxes, fees, and assessments on  
13 charges for the occupancy of a room or rooms in a hotel that is  
14 located in the municipality electing to impose the tax.

15 Current law does not, however, impose, or permit municipalities  
16 to require the collection of, taxes, fees, and assessments on charges  
17 for the rental of real property. As a result, charges for occupancies  
18 that occur in other types of real property, such as the rental of a  
19 spare bedroom in an apartment or the lease of living or sleeping  
20 spaces in a single-family house, are not subject to tax.

21 This bill amends the sales and use tax, the State hotel and motel  
22 occupancy fee, and the various other municipal taxes, fees, and  
23 assessments that apply to hotel room occupancies to extend those  
24 taxes, fees, and assessments to certain occupancies that occur in  
25 some of these other types of real property. Under the bill, charges  
26 for the occupancy of a transient accommodation will be subject to  
27 tax in the same form and manner as charges for the occupancy of a  
28 room or rooms in a hotel.

29 For purposes of the bill, a transient accommodation is a room,  
30 group of rooms, or other living or sleeping space for the lodging of  
31 occupants, including but not limited to residences or buildings used  
32 as residences. The bill defines a residence as a house,  
33 condominium, or other residential dwelling unit in a building or  
34 structure or part of a building or structure that is designed,  
35 constructed, leased, rented, let or hired out, or otherwise made  
36 available for use as a residence.

37 The bill excludes from the definition of a transient  
38 accommodation and, therefore, does not impose, or permit  
39 municipalities to require the collection of, taxes, fees, and  
40 assessments on charges for the occupancy of:

41 -- a hotel or hotel room;

42 -- a room, group of rooms, or other living or sleeping space used  
43 as a place of assembly;

44 -- a dormitory or other similar residential facility of an  
45 elementary or secondary school or a college or university;

46 -- a hospital, nursing home, or other similar residential facility of  
47 a provider of services for the care, support and treatment of  
48 individuals that is licensed by the State;

1 -- a campsite, cabin, lean-to, or other similar residential facility  
2 of a campground or an adult or youth camp; or

3 -- a furnished or unfurnished private residential property where  
4 no maid service, room service, linen changing service or other  
5 common hotel services are made available by the lessor and where  
6 the keys to the furnished or unfurnished private residential property  
7 are provided to the lessee at the location of an offsite real estate  
8 broker.

9 Under the bill, permanent residents (i.e. any occupant of a  
10 transient accommodation for at least 90 consecutive days) and  
11 charitable, non-profit organizations that lease or rent transient  
12 accommodations are to be treated consistent with how those  
13 residents and organizations are treated for purposes of hotel room  
14 occupancies under the sales and use tax. The bill provides that  
15 charges of rent for providing transient accommodations to a  
16 permanent resident are not subject to tax, and provides that  
17 charitable, non-profit organizations (that have been granted tax  
18 immunity authorization) are exempt from tax collection  
19 responsibilities when providing transient accommodations in  
20 furtherance of the purposes for which the entity was organized.

21 The bill permits the Director of the Division of Taxation in the  
22 Department of the Treasury or the chief fiscal officer of a  
23 municipality (in the case of the hotel occupancy tax) to enter into an  
24 agreement with the owner or operator of a transient space  
25 marketplace for the purpose of collecting the taxes, fees, and  
26 assessments imposed and authorized by the bill. In doing so, the bill  
27 permits the director to waive the responsibility of the person  
28 engaged in the business of providing transient accommodations or  
29 hotel rooms to collect and pay the taxes, fees, and assessments so  
30 long as the owner or operator of the transient space marketplace  
31 agrees to be personally liable for the collection and payments of  
32 those taxes, fees, and assessments.

33 The bill permits the Director of the Division of Taxation in the  
34 Department of the Treasury, in consultation with the Director of the  
35 Division of Local Government Services in the Department of  
36 Community Affairs, to adopt rules and regulations necessary to  
37 effectuate the purposes of the bill, and permits the immediate filing  
38 of those rules and regulations with the Office of Administrative  
39 Law, effective for a period not to exceed 360 days following the  
40 substitute's effective date.

41 The bill takes effect immediately upon enactment, but provides  
42 for the provisions that impose, or permit municipalities to require  
43 the collection of, taxes, fees, and assessments on charges for the  
44 occupancy of transient accommodations to remain inoperative until  
45 the first day of the first full calendar quarter beginning at least 90  
46 days following the date of enactment.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 749**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 18, 2018

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 749, with committee amendments.

As amended, this bill imposes the sales and use tax and the State hotel and motel occupancy fee on charges for the occupancy of a transient accommodation in this State, and permits municipalities authorized to impose the Meadowlands regional hotel use assessment, the sports and entertainment facility tax, the Atlantic City luxury tax, the Atlantic City promotion fee, the hotel occupancy tax, the municipal hotel and motel occupancy tax, and the Cape May County tourism tax and assessment to similarly require the collection of tax on charges for the occupancy of a transient accommodation.

Under current law, the sales and use tax and the State hotel and motel occupancy fee are generally imposed on charges for the occupancy of a room or rooms in a hotel in this State. Current law also permits certain municipalities to impose, through the adoption of a municipal ordinance, similar taxes, fees, and assessments on charges for the occupancy of a room or rooms in a hotel that is located in the municipality electing to impose the tax.

Current law does not, however, impose, or permit municipalities to require the collection of, taxes, fees, and assessments on charges for the rental of real property. As a result, charges for occupancies that occur in other types of real property, such as the rental of a spare bedroom in an apartment or the lease of living or sleeping spaces in a single-family house, are not subject to tax.

This bill amends the sales and use tax, the State hotel and motel occupancy fee, and the various other municipal taxes, fees, and assessments that apply to hotel room occupancies to extend those taxes, fees, and assessments to certain occupancies that occur in some of these other types of real property. Under the bill, charges for the occupancy of a transient accommodation will be subject to tax in the same form and manner as charges for the occupancy of a room or rooms in a hotel.

For purposes of the bill, a transient accommodation is a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used

as residences. The bill defines a residence as a house, condominium, or other residential dwelling unit in a building or structure or part of a building or structure that is designed, constructed, leased, rented, let or hired out, or otherwise made available for use as a residence.

The bill excludes from the definition of a transient accommodation and, therefore, does not impose, or permit municipalities to require the collection of, taxes, fees, and assessments on charges for the occupancy of:

- a hotel or hotel room;
- a room, group of rooms, or other living or sleeping space used as a place of assembly;
- a dormitory or other similar residential facility of an elementary or secondary school or a college or university;
- a hospital, nursing home, or other similar residential facility of a provider of services for the care, support and treatment of individuals that is licensed by the State;
- a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; or
- a furnished or unfurnished private residential property where no maid service, room service, linen changing service or other common hotel services are made available by the lessor and where the keys to the furnished or unfurnished private residential property are provided to the lessee at the location of an offsite real estate broker.

The bill does not impose occupancy or sales and use taxes on leases of real property with a term of at least 90 consecutive days.

Under the bill, permanent residents (i.e. any occupant of a transient accommodation for at least 90 consecutive days) and charitable, non-profit organizations that lease or rent transient accommodations are to be treated consistent with how those residents and organizations are treated for purposes of hotel room occupancies under the sales and use tax. The bill provides that charges of rent for providing transient accommodations to a permanent resident are not subject to tax, and provides that charitable, non-profit organizations (that have been granted tax immunity authorization) are exempt from tax collection responsibilities when providing transient accommodations in furtherance of the purposes for which the entity was organized.

The bill requires transient space marketplaces to collect and pay on behalf of persons engaged in the business of providing transient accommodations or hotel rooms located in this State the tax for transactions solely consummated through the transient space marketplace. For not less than three years following the end of the calendar year in which the transaction occurred, the transient space marketplace is required to maintain and provide, on a quarterly

basis, the Division of Taxation with the following data for those transactions consummated through the transient space marketplace:

- (1) The name of the person who provided the transient accommodation or hotel room;
- (2) The name of the customer who procured occupancy of the transient accommodation or hotel room;
- (3) The address, including any unit designation, of the transient accommodation or hotel room;
- (4) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation or hotel room;
- (5) The municipal transient accommodation registration number, if applicable;
- (6) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;
- (7) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and
- (8) Such other information as the Division of Taxation may by rule require.

The Division of Taxation will audit transient space marketplaces as necessary to ensure data accuracy and enforce tax compliance.

The bill permits the Director of the Division of Taxation in the Department of the Treasury, in consultation with the Director of the Division of Local Government Services in the Department of Community Affairs, to adopt rules and regulations necessary to effectuate the purposes of the bill, and permits the immediate filing of those rules and regulations with the Office of Administrative Law, effective for a period not to exceed 360 days following the substitute's effective date.

The bill takes effect immediately upon enactment, but provides for the provisions that impose, or permit municipalities to require the collection of, taxes, fees, and assessments on charges for the occupancy of transient accommodations to remain inoperative until the first day of the first full calendar quarter beginning at least 90 days following the date of enactment.

COMMITTEE AMENDMENTS:

The amendments clarify that leases of real property with a term of at least 90 consecutive days are exempt.

The amendments require a transient space marketplace to collect and pay on behalf of persons engaged in the business of providing transient accommodations or hotel rooms.

The amendments provide for certain quarterly reporting requirements.

The amendments revise the definition of hotel in certain sections to reflect prior enacted definitions.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects that the enactment of the bill will produce a recurring annual increase in State and local tax and fee revenues, but lacks sufficient information to determine the magnitude of the gain in fiscal years following enactment. In large part, data concerning the number and types of rental properties which would qualify as a transient accommodation under the bill, and the rates that are or may be charged for occupancies of those accommodations in the future are unknown and preclude the OLS from producing a quantitative estimate regarding the overall impact of the bill on State and local revenues.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 749**

with Senate Floor Amendments  
(Proposed by Senators DIEGNAN and SARLO)

ADOPTED: JUNE 21, 2018

These amendments modify the data keeping requirements imposed on persons engaged in providing hotel rooms or transient accommodations. Records must be kept for four years instead of three, but do not need to be provided to the Division of Taxation on a quarterly basis, and the Division of Taxation may audit for accuracy.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**SENATE, No. 749**

## **STATE OF NEW JERSEY 218th LEGISLATURE**

DATED: JUNE 28, 2018

### **SUMMARY**

- Synopsis:** Imposes State sales and use tax and hotel and motel occupancy fee on transient accommodations; authorizes various municipal taxes and fees on transient accommodations.
- Type of Impact:** Annual revenue gain to State General Fund; and Potential annual revenue gain for local governments.
- Agencies Affected:** Department of the Treasury; and local governments.

#### **Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2018</u></b>	<b><u>FY 2019</u></b>	<b><u>FY 2020 and thereafter</u></b>
<b>State Revenue Gain</b>	\$0		Indeterminate
<b>Potential Local Revenue Gain</b>	\$0		Indeterminate

- The Office of Legislative Services (OLS) expects the bill to produce an annual increase in State sales and use tax and hotel and motel fee revenues from newly imposing the tax and fee on the rent charged for each occupancy of a room in a transient accommodation in the State; however, the OLS lacks sufficient data to quantify the magnitude of the gain in the fiscal years following enactment.
- Local governments which choose to impose applicable local taxes and fees authorized pursuant to the bill are anticipated to receive annual increases in revenue. Certain municipalities, such as Atlantic City, may generate additional revenues since those municipalities are authorized to impose local taxes and fees exclusive to those districts.

### **BILL DESCRIPTION**

This bill subjects charges of rent for providing transient accommodations in this State to the State sales and use tax and the State hotel and motel occupancy fee. In addition, the bill authorizes municipalities to impose the following taxes and fees on transient accommodations:

- Hotel Occupancy Tax (C.40:48E-1 et seq.);



- Atlantic City Luxury Tax (C.40:48-8.15 et seq.);
- Atlantic City Promotion Fee (C.40:48-8.45 et seq.);
- Cape May County Tourism Sales Tax (C.40:54D-1 et seq.);
- Cape May County Tourism Assessment (C.40:54D-1 et seq.);
- Municipal Occupancy Tax (C.40:48F-1 et seq.);
- Sports and Entertainment Facility Tax (C.34:1B-190 et seq.); and
- Meadowlands Regional Hotel Use Assessment (C.5:10A-82 et seq.).

However, certain local taxes and fees are restricted to specific municipalities. For example, the Atlantic City Luxury Tax and the Atlantic City Promotion Fee are currently imposed on the rent charged for the occupancy of a hotel room within Atlantic City. Thus, only the taxes and fees a municipality is currently authorized to impose on the rent charged for the occupancy of a hotel room may be imposed on the rent charged for the occupancy of a transient accommodation following the enactment of the bill.

The bill exempts a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp. Additionally, the bill exempts from taxation furnished or unfurnished properties which are made available by the lessor and where the keys to the property, regardless whether a physical key or keyless locking mechanism is used to access the property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission and leases of real property with a term of at least 90 consecutive days. The bill treats permanent residents and charitable, non-profit organizations that lease or rent transient accommodations consistent with how those individuals and organizations are treated for purposes of hotel and motel occupancies.

The bill imposes certain data keeping requirements on persons engaged in the business of providing hotel rooms or transient accommodations for rent. The bill's tax and fee provisions take effect on the first day of the first full calendar quarter beginning at least 90 days following the bill's date of enactment.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS expects the bill to produce an annual increase in State sales and use tax and hotel and motel fee revenues from newly imposing the tax and fee on the rent charged for each occupancy of a room in a transient accommodation in the State; however, the OLS lacks sufficient data to quantify the magnitude of the gain in the fiscal years following enactment. Additionally, local governments which choose to impose applicable local taxes and fees authorized pursuant to the bill are anticipated to receive annual increases in revenue. Certain municipalities, such as Atlantic City, may generate additional revenues since those municipalities are authorized to impose local taxes and fees exclusive to those districts.

The OLS notes that data concerning rental properties which would qualify as a transient accommodation pursuant to the provisions of the bill and the rates being charged for access to those transient accommodations are unavailable. Additionally, various municipalities have considered or acted to ban the rental of transient accommodations, which has the potential to reduce the number of transient accommodation rentals available in the State. Thus, the OLS

cannot quantify the overall impact of the bill on State and local revenues due to an absence of necessary data and a changing landscape in the rental of these transient accommodations.

Nevertheless, as an example, publicly reported information (<https://www.nj.com>, 5/8/2018) references an announcement made by the online marketplace and hospitality service, Airbnb, which stated that 8,100 active hosts in New Jersey earned roughly \$7,300 in extra income. Based on these factors, annual earnings for all New Jersey hosts would be roughly \$59.1 million on an annual basis. Had these transient accommodations been taxable, combined revenue from the State sales and use tax and the State hotel and motel occupancy fee would have yielded approximately \$6.9 million. The OLS notes that New Jerseyans who offer their transient accommodations through Airbnb and other online marketplaces represent but a portion of those short-term rentals which would be considered taxable transient accommodations. Thus, the \$6.9 million in revenue attributable to taxing transient accommodations listed with Airbnb likely represents a lower amount than total revenues that could be anticipated.

Moreover, the OLS notes that a greater portion of the State's tourism lodging industry includes furnished or unfurnished private residential properties provided through a real estate broker, which are not subject to taxation pursuant to the bill. The OLS is unable to determine the number of rental properties which would otherwise be considered transient accommodations pursuant to the bill, absent being facilitated through a real estate broker. Additionally, the OLS cannot predict the number of lessors of transient accommodations who may instead choose to list with a real estate broker as part of certain tax planning measures upon enactment of the bill.

*Section: Revenue, Finance and Appropriations*

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).