

SENATE, No. 3033

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED OCTOBER 15, 2018

Sponsored by:

Senator BOB ANDRZEJCZAK

District 1 (Atlantic, Cape May and Cumberland)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Co-Sponsored by:

Senators Van Drew and Brown

SYNOPSIS

Repeals imposition of State sales and use tax and hotel and motel occupancy fee on transient accommodations; repeals authorization of various municipal taxes and fees on transient accommodations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/11/2019)

1 AN ACT repealing imposition of State sales and use tax and hotel
2 and motel occupancy fee on transient accommodations, and
3 repealing authorization of various municipal taxes and fees on
4 transient accommodations, amending various parts of the
5 statutory law.

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

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

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

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

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

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

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 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; 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.; or leases
15 of real property with a term of at least 90 consecutive days.

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 in exchange for consideration or
21 provides a means for a customer to arrange for the occupancy of the
22 transient accommodation or hotel room in exchange for
23 consideration. A 'transient space marketplace' shall not include an
24 online marketplace operated by or on behalf of a hotel or hotel
25 corporation that facilitates customer occupancy solely for the hotel
26 or hotel corporation's owned or managed hotels and franchisees. **】**

27 (cf: P.L.2018, c.52, s.1)

28

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

31 85. a. (1) Beginning on the first day of the first month next
32 following the enactment of P.L.2015 c.19 (C.5:10A-1 et al.), there
33 is imposed a Meadowlands regional hotel use assessment on the
34 rent for the occupancy of every room in every hotel **【**or transient
35 accommodation**】** located in the Meadowlands district, including any
36 hotels located on land owned by the State.

37 (2) Beginning on the first day of the first month next following
38 the enactment of P.L.2018, c.52, the Meadowlands regional hotel
39 use assessment shall be applied on the rent for the occupancy of
40 every room in every hotel **【**or transient accommodation**】** located
41 outside of the Meadowlands district, but within a constituent
42 municipality, including any hotels located on land owned by the
43 State.

44 (3) The assessment imposed under this subsection shall be 3%
45 of the rent charged for every occupancy of a room or rooms in a
46 hotel **【**or transient accommodation**】** subject to taxation pursuant to
47 subsection (d) of section 3 of P.L.1966, c.30 (C.54:32B-3), and

1 shall be paid to the Director of the Division of Taxation by each
2 person required to collect the tax not later than the 10th day of each
3 month based on the occupancy of rooms in that hotel [or transient
4 accommodation] during the previous calendar month.

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

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

21 [Notwithstanding any other provision of law or administrative
22 action to the contrary, transient space marketplaces shall be
23 required to collect and pay on behalf of persons engaged in the
24 business of providing transient accommodations or hotel rooms
25 located in this State the tax for transactions solely consummated
26 through the transient space marketplace. For not less than four years
27 following the end of the calendar year in which the transaction
28 occurred, the transient space marketplace shall maintain the
29 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;

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

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

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

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

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

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

30 d. In the event sufficient assessment revenue is unavailable in
31 any year to pay all of the required meadowlands adjustment
32 payments to municipalities in the Meadowlands district, the State
33 Treasurer shall provide the commission with such funds as may be
34 necessary to make all of the required payments to those
35 municipalities.

36 e. In the event that in any year, after the required meadowlands
37 adjustment payments have been made to municipalities in the
38 Meadowlands district, assessment revenue remains in the
39 intermunicipal account, that remaining assessment revenue may be
40 used in that year for the following purposes:

41 (1) the commission may perform projects in the areas of flood
42 control, traffic, renewable energy, or other infrastructure
43 improvement projects and utilize monies from the project fund for
44 property acquisition, demolition, clearance, removal, relocation,
45 renovation, alteration, construction, reconstruction, installation, or
46 repair of a structure or improvement, and the costs associated
47 therewith including the costs of appraisal, economic and

1 environmental analyses or engineering, planning, design,
2 architectural, surveying, or other professional services;

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

5 (3) the commission may fund the acquisition of property for the
6 purpose of open space preservation and the costs associated
7 therewith including the costs of appraisal, economic and
8 environmental analyses or engineering, surveying, or other
9 professional services; or

10 (4) the commission may fund the creation of parks and other
11 recreational facilities and the costs associated therewith, including
12 the costs of appraisal, economic and environmental analyses or
13 engineering planning, design, architectural, surveying, or other
14 professional services.

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

21 f. Terms used in this section shall have the meaning given
22 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).
23 (cf: P.L.2018, c.52, s.2)

24
25 3. Section 3 of P.L.2007, c.30 (C.34:1B-192) is amended to
26 read as follows:

27 3. As used in this act:

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

31 "Developer" means any person or entity, whether public or
32 private, including a State entity, that proposes to undertake a project
33 pursuant to a development agreement.

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

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

45 "Infrastructure improvements" means the construction or
46 rehabilitation of any street, highway, utility, transportation or
47 parking facilities, or other similar improvements; the acquisition of
48 any interest in land as necessary or convenient for the acquisition of

1 any right-of-way or other easement for the purpose of constructing
2 infrastructure improvements; the acquisition, construction or
3 reconstruction of land and site improvements, including demolition,
4 clearance, removal, construction, reconstruction, fill, environmental
5 enhancement or abatement, or other site preparation for
6 development of a sports and entertainment district.

7 "Project" means a sports and entertainment facility and may
8 include infrastructure improvements that are associated with the
9 sports and entertainment facility.

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

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

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

30 "State Treasurer" or "treasurer" means the treasurer of the State
31 of New Jersey.

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

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

7 "Transient space marketplace" means an online marketplace
8 through which a person may offer transient accommodations or
9 hotel rooms to individuals. A "transient space marketplace" allows
10 transient accommodations or hotel rooms to be advertised or listed
11 through an online marketplace in exchange for consideration or
12 provides a means for a customer to arrange for the occupancy of the
13 transient accommodation or hotel room in exchange for
14 consideration. A 'transient space marketplace' shall not include an
15 online marketplace operated by or on behalf of a hotel or hotel
16 corporation that facilitates customer occupancy solely for the hotel
17 or hotel corporation's owned or managed hotels and franchisees. **】**

18 (cf: P.L.2018, c.49, s.3)

19

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

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

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

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

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

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

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

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

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

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

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

26 (cf: P.L. 2018, c.49, s.4)

27

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

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

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

43 c. **【**Notwithstanding any other provision of law or
44 administrative action to the contrary, transient space marketplaces
45 shall be required to collect and pay on behalf of persons engaged in
46 the business of providing transient accommodations or hotel rooms
47 located in this State the tax for transactions solely consummated
48 through the transient space marketplace. For not less than four years

1 following the end of the calendar year in which the transaction
2 occurred, the transient space marketplace shall maintain the
3 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 may audit transient space marketplaces as
29 necessary to ensure data accuracy and enforce tax compliance.】

30 (Deleted by amendment, P.L. _____, c. _____) (pending before the
31 Legislature as this bill)

32 (cf: P.L.2018, c.49, s.5)

33

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

36 2. As used in this act:

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

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

41 (2) Any cover charge, minimum charge, entertainment, or other
42 similar charge made to any patron of any restaurant, cafe, bar, hotel
43 or other similar establishment;

44 (3) The hiring, with or without service, of any room in any
45 hotel, 【transient accommodation,】 inn, rooming or boarding house;

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

47 (5) The granting or sale of any ticket, license or permit for
48 admission to any theatre, moving picture exhibition or show, pier,

1 exhibition, or place of amusement, except charges for admission to
2 boxing, wrestling, kick boxing or combative sports events, matches,
3 or exhibitions, which charges are taxed pursuant to section 20 of
4 P.L.1985, c.83 (C.5:2A-20).

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

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

9 **["Residence" means a house, condominium, or other residential**
10 **dwelling unit in a building or structure or part of a building or**
11 **structure that is designed, constructed, leased, rented, let or hired**
12 **out, or otherwise made available for use as a residence.**

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

36 "Transient space marketplace" means an online marketplace
37 through which a person may offer transient accommodations or
38 hotel rooms to individuals. A "transient space marketplace" allows
39 transient accommodations or hotel rooms to be advertised or listed
40 through an online marketplace in exchange for consideration or
41 provides a means for a customer to arrange for the occupancy of the
42 transient accommodation or hotel room in exchange for
43 consideration. A 'transient space marketplace' shall not include an
44 online marketplace operated by or on behalf of a hotel or hotel
45 corporation that facilitates customer occupancy solely for the hotel
46 or hotel corporation's owned or managed hotels and franchisees. **】**

47 (cf: P.L.2018, c.49, s.6)

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

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

10 b. The director shall determine and certify to the State
11 Treasurer on a monthly basis the amount of revenues payable to any
12 municipality which has enacted a tax pursuant to P.L.1947, c.71
13 (C.40:48-8.15 et seq.) and collected by the director pursuant to this
14 supplementary act. The State Treasurer upon the certification of the
15 director and upon the warrant of the State Comptroller, shall pay
16 and distribute on a monthly basis to each municipality the amount
17 so determined and certified.

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

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

33 (2) For purposes of this subsection, "vendor" includes: an
34 individual, partnership, corporation, or an officer, director,
35 stockholder, or employee of a corporation, or a member or
36 employee of a partnership, who as such officer, director,
37 stockholder, employee, or member is under the duty to perform the
38 act in respect of which the violation occurs.

39 e. **【**Notwithstanding any other provision of law or
40 administrative action to the contrary, transient space marketplaces
41 shall be required to collect and pay on behalf of persons engaged in
42 the business of providing transient accommodations or hotel rooms
43 located in this State the tax for transactions solely consummated
44 through the transient space marketplace. For not less than four years
45 following the end of the calendar year in which the transaction
46 occurred, the transient space marketplace shall maintain the
47 following data for those transactions consummated through the
48 transient space marketplace:

- 1 (1) The name of the person who provided the transient
2 accommodation or hotel room;
 - 3 (2) The name of the customer who procured occupancy of the
4 transient accommodation or hotel room;
 - 5 (3) The address, including any unit designation, of the transient
6 accommodation or hotel room;
 - 7 (4) The dates and nightly rates for which the consumer procured
8 occupancy of the transient accommodation or hotel room;
 - 9 (5) The municipal transient accommodation registration number,
10 if applicable;
 - 11 (6) A statement as to whether such booking services will be
12 provided in connection with (i) short-term rental of the entirety of
13 such unit, (ii) short-term rental of part of such unit, but not the
14 entirety of such unit, and/or (iii) short-term rental of the entirety of
15 such unit, or part thereof, in which a non-short-term occupant will
16 continue to occupy such unit for the duration of such short-term
17 rental;
 - 18 (7) The individualized name or number of each such
19 advertisement or listing connected to such unit and the uniform
20 resource locator (URL) for each such listing or advertisement,
21 where applicable; and
 - 22 (8) Such other information as the Division of Taxation may by
23 rule require.
- 24 The Division of Taxation may audit transient space marketplaces as
25 necessary to ensure data accuracy and enforce tax compliance.】
26 (Deleted by amendment, P.L. , c.) (pending before the
27 Legislature as this bill)
28 (cf: P.L.2018, c.49, s.7)
29
- 30 8. Section 1 of P.L.1991, c.376 (C.40:48-8.45) is amended to
31 read as follows:
- 32 1. As used in this act:
 - 33 a. "Convention center operating authority" means, in the case
34 of any eligible municipality, the public authority or other
35 governmental entity empowered to operate convention hall and the
36 convention center facilities in the eligible municipality.
 - 37 b. "Director" means the Director of the Division of Taxation in
38 the Department of the Treasury.
 - 39 c. "Eligible municipality" means any municipality in which any
40 portion of the proceeds of a retail sales tax levied by ordinance
41 adopted by the municipality pursuant to section 1 of P.L.1947, c.71
42 (C.40:48-8.15) is applied as authorized by law to the payment of
43 costs of convention center facilities located in the municipality.
 - 44 d. "Hotel" means a building or a portion of a building which is
45 regularly used and kept open as such for the lodging of guests.
46 "Hotel" includes an apartment hotel, a motel, inn, and rooming or
47 boarding house or club, whether or not meals are served【, but does
48 not include a transient accommodation】.

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 (Deleted by amendment, P.L. _____, c. _____) (pending before the
10 Legislature as this bill)

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

36 h. **【"Transient space marketplace" means an online**
37 **marketplace through which a person may offer transient**
38 **accommodations or hotel rooms to individuals. A "transient space**
39 **marketplace" allows transient accommodations or hotel rooms to be**
40 **advertised or listed through an online marketplace in exchange for**
41 **consideration or provides a means for a customer to arrange for the**
42 **occupancy of the transient accommodation or hotel room in**
43 **exchange for consideration. A 'transient space marketplace' shall**
44 **not include an online marketplace operated by or on behalf of a**
45 **hotel or hotel corporation that facilitates customer occupancy solely**
46 **for the hotel or hotel corporation's owned or managed hotels and**

1 franchisees.】 (Deleted by amendment, P.L. , c.) (pending before
2 the Legislature as this bill)

3 (cf: P.L.2018, c.49, s.8)

4

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

7 2. There is authorized to be imposed on and collected from
8 hotels **【and transient accommodations】** in an eligible municipality,
9 fees for the promotion of tourism, conventions, resorts and casino
10 gaming, if any, in the eligible municipality.

11 (cf: P.L.2018, c.49, s.9)

12

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

15 4. Fees under this act with respect to any eligible municipality
16 shall be adopted by resolution of the convention center operating
17 authority operating convention center facilities within the eligible
18 municipality. The rate thereof shall be \$2 per day for each occupied
19 room in the case of any hotels in the eligible municipality which
20 provide casino gaming, and \$1 per day for each occupied room in
21 the case of the other hotels **【or transient accommodations】** in the
22 eligible municipality. A certified copy of the resolution shall be
23 provided to the State Treasurer and the director.

24 (cf: P.L.2018, c.49, s.10)

25

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

28 5. The fees under this act shall be collected and administered
29 by the director, notwithstanding the provisions of any other law to
30 the contrary. In carrying out the provisions of this section, the
31 director shall have all the powers granted in P.L.1966, c.30
32 (C.54:32B-1 et seq.). The director shall determine and certify to the
33 State Treasurer on a monthly basis the amount of revenues collected
34 by the director pursuant to this section on account of the fees
35 imposed pursuant to this act in an eligible municipality which are
36 payable to the convention center operating authority operating
37 convention center facilities in such eligible municipality. The State
38 Treasurer upon the certification of the director and upon the warrant
39 of the State Comptroller, shall pay and distribute on a monthly basis
40 to the convention center operating authority the amount so
41 determined and certified.

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 four years**
48 **following the end of the calendar year in which the transaction**

1 occurred, the transient space marketplace shall maintain the
2 following data for those transactions consummated through the
3 transient space marketplace:

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

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

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

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

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

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

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

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

27 The Division of Taxation may audit transient space marketplaces as
28 necessary to ensure data accuracy and enforce tax compliance. **】**

29 (cf: P.L.2018, c.49, s.11)

30

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

33 2. As used in this act "hotel" means a building or portion of a
34 building which is regularly used and kept open as such for the
35 lodging of guests. "Hotel" includes an apartment hotel, a motel, inn,
36 and rooming or boarding house or club, whether or not meals are
37 served **【**, but does not include a transient accommodation **】**.

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

42 "Transient accommodation" means a room, group of rooms, or
43 other living or sleeping space for the lodging of occupants,
44 including but not limited to residences or buildings used as
45 residences. "Transient accommodation" does not include: a hotel or
46 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; 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.; or leases
16 of real property with a term of at least 90 consecutive days.

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 in exchange for consideration or
22 provides a means for a customer to arrange for the occupancy of the
23 transient accommodation or hotel room in exchange for
24 consideration. A 'transient space marketplace' shall not include an
25 online marketplace operated by or on behalf of a hotel or hotel
26 corporation that facilitates customer occupancy solely for the hotel
27 or hotel corporation's owned or managed hotels and franchisees. **】**
28 (cf: P.L.2018, c.49, s.12)

29
30 13. Section 3 of P.L.1981, c.77 (C.40:48E-3) is amended to read
31 as follows:

32 3. The governing body of any city of the first class or the
33 governing body of any city of the second class in which there is
34 located a terminal of an international airport may make, amend,
35 repeal and enforce an ordinance imposing in the city a tax, not to
36 exceed 6%, on charges for the use or occupation of rooms in hotels
37 **【or transient accommodations】** which tax shall be in addition to any
38 other tax imposed by law.
39 (cf: P.L. 2018, c.49, s.13)

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

43 4. a. The tax shall be collected on behalf of the city by the
44 person collecting the use or occupancy charge from the hotel **【or**
45 **transient accommodation】** customer.

46 b. Every person required to collect any 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 his customer as
2 if the tax were a part of the use or occupancy charge and payable at
3 the same time; provided, however, that the chief fiscal officer of the
4 city shall be joined as a party in any action or proceeding brought to
5 collect the tax.

6 c. **【**Notwithstanding any other provision of law or
7 administrative action to the contrary, transient space marketplaces
8 shall be required to collect and pay on behalf of persons engaged in
9 the business of providing transient accommodations or hotel rooms
10 located in this State the tax for transactions solely consummated
11 through the transient space marketplace. For not less than four years
12 following the end of the calendar year in which the transaction
13 occurred, the transient space marketplace shall maintain the
14 following data for those transactions consummated through the
15 transient space marketplace:

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

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

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

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

24 (5) The municipal transient accommodation registration number,
25 if applicable;

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

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

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

39 The Division of Taxation may audit transient space marketplaces as
40 necessary to ensure data accuracy and enforce tax compliance. **】**

41 (Deleted by amendment, P.L. _____, c. _____) (pending before the
42 Legislature as this bill)

43 d. No person required to collect any tax hereunder shall
44 advertise or hold out to any person or to the public in general, in
45 any manner, directly or indirectly, that the tax will not be separately
46 charged and stated to the customer or that the tax will be refunded
47 to the customer.

1 e. All revenues collected from the tax shall be remitted to the
2 chief fiscal officer of the city on or before the dates on which
3 municipal real property taxes are due.

4 f. The city shall enforce the payment of delinquent hotel
5 occupancy taxes in the same manner as provided for municipal real
6 property taxes.
7 (cf: P.L.2018, c.49, s.14)

8
9 15. Section 3 of P.L.2003, c.114 (C.40:48F-1) is amended to
10 read as follows:

11 3. The governing body of a municipality, other than a city of
12 the first class or a city of the second class in which the tax
13 authorized under P.L.1981, c.77 (C.40:48E-1 et seq.) is imposed, a
14 city of the fourth class in which the tax authorized under P.L.1947,
15 c.71 (C.40:48-8.15 et seq.) is imposed, or a municipality in which
16 the tax and assessment authorized under section 4 of P.L.1992,
17 c.165 (C.40:54D-4) is imposed, may adopt an ordinance imposing a
18 tax, at a uniform percentage rate not to exceed 1% on charges of
19 rent for every occupancy on or after July 1, 2003 but before July 1,
20 2004, and not to exceed 3% on charges of rent for every occupancy
21 on or after July 1, 2004, of a room or rooms in a hotel [or transient
22 accommodation] subject to taxation pursuant to subsection (d) of
23 section 3 of P.L.1966, c.30 (C.54:32B-3). An ordinance so adopted
24 may also require that unpaid taxes under this section shall be
25 subject to interest at the rate of 5% per annum.

26 A tax imposed under this section shall be in addition to any other
27 tax or fee imposed pursuant to statute or local ordinance or
28 resolution by any governmental entity upon the occupancy of a
29 hotel room.

30 A copy of an ordinance adopted pursuant to this section shall be
31 transmitted upon adoption or amendment to the State Treasurer,
32 together with a list of the names and addresses of all of the hotels
33 and motels located in the municipality. An ordinance so adopted or
34 any amendment thereto shall provide that the tax provisions of the
35 ordinance or any amendment to the tax provisions shall take effect
36 on the first day of the first full month occurring 30 days after the
37 date of transmittal to the State Treasurer for ordinances adopted in
38 calendar year 2003 and on the first day of the first full month
39 occurring 90 days after the date of transmittal to the State Treasurer
40 for ordinances adopted in calendar year 2004 and thereafter.

41 A municipality that has adopted an ordinance pursuant to this
42 section shall annually provide to the State Treasurer, not later than
43 January 1 of each year, a list of the names and addresses of all of
44 the hotels and motels located in the municipality. A municipality
45 shall also provide to the State Treasurer the name and address of
46 any hotel or motel that commences operation after January 1 of any
47 year.

48 (cf: P.L.2018, c.49, s.15)

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

3 5. a. A tax imposed pursuant to a municipal ordinance adopted
4 under the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1)
5 shall be collected on behalf of the municipality by the person
6 collecting the rent from the hotel **【or transient accommodation】**
7 customer.

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

16 c. **【Notwithstanding any other provision of law or**
17 **administrative action to the contrary, transient space marketplaces**
18 **shall be required to collect and pay on behalf of persons engaged in**
19 **the 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 four years**
22 **following the end of the calendar year in which the transaction**
23 **occurred, the transient space marketplace shall maintain the**
24 **following data for those transactions consummated through the**
25 **transient space marketplace:**

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

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

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

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

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

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

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

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

1 The Division of Taxation may audit transient space marketplaces as
2 necessary to ensure data accuracy and enforce tax compliance.】
3 (Deleted by amendment, P.L. _____, c. _____) (pending before the
4 Legislature as this bill)
5 (cf: P.L.2018, c.49, s.16)
6

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

9 3. As used in this act:

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

13 "Beach operation offset payment " means a payment made by an
14 authority to municipalities in its district for tourism development
15 activities related to operating and maintaining public beaches within
16 a zone to seaward of a line of demarcation located not more than
17 1,000 feet from the mean high water line.

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

20 "Commissioner" means the Commissioner of the Department of
21 Commerce and Economic Development.

22 "Construction" means the planning, designing, construction,
23 reconstruction, rehabilitation, replacement, repair, extension,
24 enlargement, improvement and betterment of a project, and includes
25 the demolition, clearance and removal of buildings or structures on
26 land acquired, held, leased or used for a project.

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

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

40 "Cost" means all or any part of the expenses incurred in
41 connection with the acquisition, construction and maintenance of
42 any real property, lands, structures, real or personal property rights,
43 rights-of-way, franchises, easements, and interests acquired or used
44 for a project; any financing charges and reserves for the payment of
45 principal and interest on bonds or notes; the expenses of
46 engineering, appraisal, architectural, accounting, financial and legal
47 services; and other expenses as may be necessary or incident to the

1 acquisition, construction and maintenance of a project, the
2 financing thereof and the placing of the project into operation.

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

4 "Director" means the Director of the Division of Taxation in the
5 Department of the Treasury.

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

8 "Outdoor special events arena" means a facility or structure for
9 the holding outdoors of public events, entertainments, sporting
10 events, concerts or similar activities, and shall include all facilities,
11 property rights and interests, and all appurtenances reasonably
12 related thereto, constructed for the accommodation and
13 entertainment of tourists and visitors.

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

21 "Predominantly tourism related retail receipts" means:

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

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

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

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

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

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

1 "Tourism" means activities involved in providing and marketing
2 services and products, including accommodations, for nonresidents
3 and residents who travel to and in New Jersey for recreation and
4 pleasure.

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

10 "Tourism development activities" include operations of the
11 authority to carry out its statutory duty to promote, advertise and
12 market the district, including making beach operation offset
13 payments.

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

16 "Tourism improvement and development district" or "district"
17 means an area within two or more contiguous municipalities within
18 a county of the sixth class established pursuant to ordinance enacted
19 by those municipalities, for the purposes of promoting the
20 acquisition, construction, maintenance, operation and support of a
21 tourism project, and to devote the revenue and the proceeds from
22 taxes upon predominantly tourism related retail receipts and from
23 tourism development fees to the purposes as herein defined.

24 "Tourist industry" means the industry consisting of private and
25 public organizations which directly or indirectly provide services
26 and products to nonresidents and residents who travel to and in New
27 Jersey for recreation and pleasure.

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

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

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

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

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

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

26 (cf: P.L.2018, c.49, s.17)

27

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

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

41 (2) A vendor required to collect the tax upon predominantly
42 tourism related retail receipts and the tourism assessment shall be
43 personally liable for the tax or assessment imposed, collected, or
44 required to be paid, collected, or remitted under section 4 of
45 P.L.1992, c.165 (C.40:54D-4). Any such vendor shall have the
46 same right in respect to collecting the tax or assessment from that
47 vendor's customer or in respect to non-payment of the tax or
48 assessment by the customer as if the tax or assessment were a part

1 of the purchase price of the property or service, amusement charge
2 or rent, as the case may be, and payable at the same time; provided
3 however, that the director shall be joined as a party in any action or
4 proceeding brought to collect the tax or assessment.

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

11 (3) [Notwithstanding any other provision of law or
12 administrative action to the contrary, transient space marketplaces
13 shall be required to collect and pay on behalf of persons engaged in
14 the business of providing transient accommodations or hotel rooms
15 located in this State the tax for transactions solely consummated
16 through the transient space marketplace. For not less than four years
17 following the end of the calendar year in which the transaction
18 occurred, the transient space marketplace shall maintain the
19 following data for those transactions consummated through the
20 transient space marketplace:

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

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

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

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

29 (5) The municipal transient accommodation registration number,
30 if applicable;

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

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

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

44 The Division of Taxation may audit transient space marketplaces as
45 necessary to ensure data accuracy and enforce tax compliance.]
46 (Deleted by amendment, P.L. _____, c. _____) (pending before the
47 Legislature as this bill)

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.2018, c.49, s.18)

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) [Notwithstanding any other provision of law or
44 administrative action to the contrary, transient space marketplaces
45 shall be required to collect and pay on behalf of persons engaged in
46 the business of providing transient accommodations or hotel rooms
47 located in this State the tax for transactions solely consummated
48 through the transient space marketplace. For not less than four years

1 following the end of the calendar year in which the transaction
2 occurred, the transient space marketplace shall maintain the
3 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 may audit transient space marketplaces
29 as necessary to ensure data accuracy and enforce tax compliance. **】**
30 (Deleted by amendment, P.L. _____, c. _____) (pending before the
31 Legislature as this bill)

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

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

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

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

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

1 or liable for the payment of any amusement charge; every occupant
2 of a room or rooms in a hotel **【or transient accommodation】**; every
3 person paying charges in the nature of initiation fees, membership
4 fees or dues for access to or use of the property or facilities of a
5 health and fitness, athletic, sporting or shopping club or
6 organization; and every purchaser of parking, storage or garaging a
7 motor vehicle.

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

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

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

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

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

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

47 (C) Providing tangible personal property or a specified digital
48 product along with an operator for a fixed or indeterminate period

1 of time. A condition of this exclusion is that the operator is
2 necessary for the equipment to perform as designed. For the
3 purpose of this subparagraph, an operator must do more than
4 maintain, inspect, or set-up the tangible personal property or
5 specified digital product.

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

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

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

17 (cc) "Telecommunications service" means the electronic
18 transmission, conveyance, or routing of voice, data, audio, video, or
19 any other information or signals to a point, or between or among
20 points.

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

28 "Telecommunications service" shall not include:

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

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

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

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

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

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

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

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

42 (9) tangible personal property;

43 (10) advertising, including but not limited to directory
44 advertising;

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

46 (12) internet access service;

47 (13) radio and television audio and video programming services,
48 regardless of the medium, including the furnishing of transmission,

1 conveyance, and routing of such services by the programming
2 service provider. Radio and television audio and video
3 programming services shall include but not be limited to cable
4 service as defined in section 47 U.S.C. s.522(6) and audio and video
5 programming services delivered by commercial mobile radio
6 service providers, as defined in section 47 C.F.R. 20.3;

7 (14) ancillary services; or

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

10 For the purposes of this subsection:

11 "ancillary service" means a service that is associated with or
12 incidental to the provision of telecommunications services,
13 including but not limited to detailed telecommunications billing,
14 directory assistance, vertical service, and voice mail service;

15 "conference bridging service" means an ancillary service that
16 links two or more participants of an audio or video conference call
17 and may include the provision of a telephone number. Conference
18 bridging service does not include the telecommunications services
19 used to reach the conference bridge;

20 "detailed telecommunications billing service" means an ancillary
21 service of separately stating information pertaining to individual
22 calls on a customer's billing statement;

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

25 "vertical service" means an ancillary service that is offered in
26 connection with one or more telecommunications services, which
27 offers advanced calling features that allow customers to identify
28 callers and to manage multiple calls and call connections, including
29 conference bridging services; and

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

34 (dd) (1) "Intrastate telecommunications" means a
35 telecommunications service that originates in one United States
36 state or a United States territory or possession or federal district,
37 and terminates in the same United States state or United States
38 territory or possession or federal district.

39 (2) "Interstate telecommunications" means a
40 telecommunications service that originates in one United States
41 state or a United States territory or possession or federal district,
42 and terminates in a different United States state or United States
43 territory or possession or federal district.

44 (3) "International telecommunications" means a
45 telecommunications service that originates or terminates in the
46 United States and terminates or originates outside the United States,
47 respectively. "United States" includes the District of Columbia or a
48 United States territory or possession.

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

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

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

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

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

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

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

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

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

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

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

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

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

47 (C) Charges by the seller for any services necessary to complete
48 the sale;

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

1 an audio or video programming service, if the price is attributable to
2 products that are taxable and products that are nontaxable, the
3 portion of the price attributable to the nontaxable products is
4 subject to tax unless the provider can identify by reasonable and
5 verifiable standards such portion from its books and records that are
6 kept in the regular course of business for other purposes, including
7 non-tax purposes.

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

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

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

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

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

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

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

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

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

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

1 or an adult or youth camp; a furnished or unfurnished private
2 residential property, including but not limited to condominiums,
3 bungalows, single-family homes and similar living units, where no
4 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 whether a physical key, access to a keyless locking mechanism, or
8 other means of physical ingress to the furnished or unfurnished
9 private residential property, are provided to the lessee at the
10 location of an offsite real estate broker licensed by the New Jersey
11 Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases
12 of real property with a term of at least 90 consecutive days.】
13 (Deleted by amendment, P.L. _____, c. _____) (pending before the
14 Legislature as this bill)

15 (hhh) 【"Transient space marketplace" means an online
16 marketplace through which a person may offer transient
17 accommodations or hotel rooms to individuals. A "transient space
18 marketplace" allows transient accommodations or hotel rooms to be
19 advertised or listed through an online marketplace in exchange for
20 consideration or provides a means for a customer to arrange for the
21 occupancy of the transient accommodation or hotel room in
22 exchange for consideration. A 'transient space marketplace' shall
23 not include an online marketplace operated by or on behalf of a
24 hotel or hotel corporation that facilitates customer occupancy solely
25 for the hotel or hotel corporation's owned or managed hotels and
26 franchisees.】 (Deleted by amendment, P.L. _____, c. _____) (pending before
27 the Legislature as this bill)
28 (cf: P.L.2018, c.49, s.19)
29

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

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

36 (a) The receipts from every retail sale of tangible personal
37 property or a specified digital product for permanent use or less
38 than permanent use, and regardless of whether continued payment is
39 required, except as otherwise provided in P.L.1966, c.30 (C.54:32B-
40 1 et seq.).

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

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

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

20 (3) Storing all tangible personal property not held for sale in the
21 regular course of business; the rental of safe deposit boxes or
22 similar space; and the furnishing of space for storage of tangible
23 personal property by a person engaged in the business of furnishing
24 space for such storage.

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

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

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

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

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

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

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

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

9 (11) Investigation and security services.

10 (12) Information services.

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

12 (14) Telephone answering services.

13 (15) Radio subscription services.

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

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

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

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

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

48 (3) For the purposes of this subsection:

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

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

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

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

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

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

23 (i) The receipts from parking, storing, or garaging a motor
24 vehicle, excluding charges for the following: residential parking;
25 employee parking, when provided by an employer or at a facility
26 owned or operated by the employer; municipal parking, storing, or
27 garaging; receipts from charges or fees imposed pursuant to section
28 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement
29 between the Casino Reinvestment Development Authority and a
30 casino operator in effect on the date of enactment of P.L.2007,
31 c.105; and receipts from parking, storing, or garaging a motor
32 vehicle subject to tax pursuant to any other law or ordinance.

33 For the purposes of this subsection, "municipal parking, storing,
34 or garaging" means any motor vehicle parking, storing, or garaging
35 provided by a municipality or county, or a parking authority
36 thereof.

37 (cf: P.L.2018, c.49, s.20)

38

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

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

45 (1) The State of New Jersey, or any of its agencies,
46 instrumentalities, public authorities, public corporations (including
47 a public corporation created pursuant to agreement or compact with
48 another state) or political subdivisions where it is the purchaser,

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

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

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

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

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

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

42 (2) retail sales of tangible personal property or specified digital
43 products by any shop or store operated by an organization described
44 in subsection (b) of this section, unless the tangible personal
45 property or specified digital product was received by the
46 organization as a gift or contribution and the shop or store is one in
47 which substantially all the work in carrying on the business of the
48 shop or store is performed for the organization without

1 compensation and substantially all of the shop's or store's
2 merchandise has been received by the organization as gifts or
3 contributions or unless the purchaser is an organization exempt
4 under this section; or

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

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

12 (e) Where any organization described in subsection (b) of this
13 subsection carries on its activities in furtherance of the purposes for
14 which it was organized, in premises in which, as part of those
15 activities, it operates a hotel [or transient accommodation],
16 occupancy of rooms in the premises and rents from those rooms
17 received by the organization shall not be subject to tax under the
18 "Sales and Use Tax Act."

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

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

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

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

30 (D) a police or fire department of a political subdivision of the
31 State, or a volunteer fire company, ambulance, first aid, or
32 emergency company or squad, or exclusively to a retirement,
33 pension or disability fund for the sole benefit of members of a
34 police or fire department or to a fund for the heirs of such members.

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

37 (A) Any athletic game or exhibition unless the proceeds shall
38 inure exclusively to the benefit of elementary or secondary schools
39 or unless in the case of an athletic game between two elementary or
40 secondary schools, the entire gross proceeds from such game shall
41 inure to the benefit of one or more organizations described in
42 subsection (b) of this section;

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

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

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

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

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

17 (cf: P.L.2018, c.49, s.21)

18

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

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

35 (1) the combined rates of the fee imposed under this section,
36 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
37 c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947,
38 c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of 14% on
39 or before December 31, 2016, 13.875% on and after January 1,
40 2017 but before January 1, 2018, and 13.625% on and after January
41 1, 2018, and to the extent that the total combined rate of taxation for
42 the listed fees and taxes would exceed 14% on or before December
43 31, 2016, 13.875% on and after January 1, 2017 but before January
44 1, 2018, and 13.625% on and after January 1, 2018, the fee imposed
45 under this section shall be reduced so that the total combined rate
46 equals 14% on or before December 31, 2016, 13.875% on and after
47 January 1, 2017 but before January 1, 2018, and 13.625% on and
48 after January 1, 2018;

1 (2) 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 and assessment imposed
4 under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a
5 total rate of 14% on or before December 31, 2016, 13.875% on and
6 after January 1, 2017 but before January 1, 2018, and 13.625% on
7 and after January 1, 2018, and to the extent that the total combined
8 rate of taxation for the listed fees and taxes would exceed 14% on
9 or before December 31, 2016, 13.875% on and after January 1,
10 2017 but before January 1, 2018, and 13.625% on and after January
11 1, 2018, the fee imposed under this section shall be reduced so that
12 the total combined rate equals 14% on or before December 31,
13 2016, 13.875% on and after January 1, 2017 but before January 1,
14 2018, and 13.625% on and after January 1, 2018; and

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

18 b. The hotel and motel occupancy fee imposed by subsection a.
19 of this section shall not be imposed on the rent for an occupancy if
20 the purchaser, user or consumer is an entity exempt from the tax
21 imposed on an occupancy under the "Sales and Use Tax Act"
22 pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-
23 9).

24 c. Terms used in this section shall have the meaning given
25 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).
26 (cf: P.L.2018, c.49, s.22)

27
28 23. Section 2 of P.L.2003, c.114 (C.54:32D-2) is amended to
29 read as follows:

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

34 (1) of the fees collected for occupancies during State Fiscal
35 Year 2004: \$16,000,000 shall be allocated for appropriation to the
36 New Jersey State Council on the Arts for cultural projects;
37 \$2,700,000 shall be allocated for appropriation to the New Jersey
38 Historical Commission for the purposes of subsection a. of section 3
39 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated
40 for appropriation to the New Jersey Commerce and Economic
41 Growth Commission for tourism advertising and promotion; and
42 \$500,000 shall be allocated for appropriation to the New Jersey
43 Cultural Trust; and

44 (2) of the fees collected for occupancies during State Fiscal
45 Year 2005 and thereafter: 22.68 percent shall be annually allocated
46 for appropriation to the New Jersey State Council on the Arts for
47 cultural projects, provided that the amount allocated shall not be
48 less than \$22,680,000; 3.84 percent shall be allocated for

1 appropriation to the New Jersey Historical Commission for the
2 purposes of subsection a. of section 3 of P.L.1999, c.131
3 (C.18A:73-22.3), provided that the amount allocated shall not be
4 less than \$3,840,000; 12.76 percent shall be allocated for
5 appropriation to the New Jersey Commerce and Economic Growth
6 Commission for tourism advertising and promotion, provided that
7 the amount allocated shall not be less than \$12,760,000; and .72
8 percent shall be allocated for appropriation to the New Jersey
9 Cultural Trust, provided that the amount allocated shall not be less
10 than \$720,000.

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

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

29 For purposes of this paragraph, "person" includes: an individual,
30 partnership, corporation, or an officer, director, stockholder, or
31 employee of a corporation, or a member or employee of a
32 partnership, who as such officer, director, stockholder, employee, or
33 member is under the duty to perform the act in respect of which the
34 violation occurs.

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

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

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

- 1 (3) The address, including any unit designation, of the transient
2 accommodation or hotel room;
- 3 (4) The dates and nightly rates for which the consumer procured
4 occupancy of the transient accommodation or hotel room;
- 5 (5) The municipal transient accommodation registration number,
6 if applicable;
- 7 (6) A statement as to whether such booking services will be
8 provided in connection with (i) short-term rental of the entirety of
9 such unit, (ii) short-term rental of part of such unit, but not the
10 entirety of such unit, and/or (iii) short-term rental of the entirety of
11 such unit, or part thereof, in which a non-short-term occupant will
12 continue to occupy such unit for the duration of such short-term
13 rental;
- 14 (7) The individualized name or number of each such
15 advertisement or listing connected to such unit and the uniform
16 resource locator (URL) for each such listing or advertisement,
17 where applicable; and
- 18 (8) Such other information as the Division of Taxation may by
19 rule require.
- 20 The Division of Taxation may audit transient space marketplaces as
21 necessary to ensure data accuracy and enforce tax compliance.】
22 (Deleted by amendment, P.L. _____, c. _____) (pending before the
23 Legislature as this bill)
- 24 c. The annual appropriations act for each State Fiscal Year,
25 commencing with fiscal year 2005, shall appropriate and distribute
26 during that fiscal year amounts not less than the amounts otherwise
27 specified for State Fiscal Year 2004 in paragraph (1) of subsection
28 a. of this section for the purposes specified in paragraph (1) of
29 subsection a. of this section.
- 30 d. If the provisions of subsection c. of this section are not met
31 on the effective date of an annual appropriations act for the State
32 fiscal year, or if an amendment or supplement to an annual
33 appropriations act for the State fiscal year should violate the
34 provisions of subsection c. of this section, the Director of the
35 Division of Budget and Accounting in the Department of the
36 Treasury shall, not later than five days after the enactment of the
37 annual appropriations act, or an amendment or supplement thereto,
38 that violates the provisions of subsection c. of this section, certify to
39 the Director of the Division of Taxation that the requirements of
40 subsection c. of this section have not been met.
- 41 e. The Director of the Division of Taxation shall, no later than
42 five days after certification by the Director of the Division of
43 Budget and Accounting in the Department of the Treasury pursuant
44 to subsection d. of this section that the provisions of subsection c.
45 of this section have not been met or have been violated by an
46 amendment or supplement to the annual appropriations act, notify
47 each person required to collect tax of the certification and that the

1 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1)
2 shall no longer be paid or collected.
3 (cf: P.L.2018, c.49, s.23)

4

5 24. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill repeals P.L.2018, c.49. That law imposed the sales and
11 hotel taxes on transient accommodations and authorized various
12 local taxes on transient accommodations.