

ASSEMBLY, No. 2657
STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED MAY 13, 2010

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

SYNOPSIS

The "Seaside Lodging and Rental District Act"; imposes tax on certain lodging properties for tourism promotion therein.

CURRENT VERSION OF TEXT

As introduced.

AN ACT requiring certain municipalities to establish seaside lodging and rental districts, imposing a fee on certain lodging and rental properties within such districts, amending P.L.1966, c.30 and P.L.2003, c.114 and supplementing Title 40 of the Revised Statutes.

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

1. (New section) Sections 1 through 5 of this act shall be known and cited as the “Seaside Lodging and Rental District Act.”

2. (New section) As used in this act:

“Director” means the Director of the Division of Taxation in the Department of the Treasury.

“Seaside lodging and rental district” or “district” means a geographic area within a resort municipality that shall have been designated pursuant to subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

“Lodging property” means any hotel, inn, motel, bed and breakfast guesthouse, house, apartment, condominium, or other establishment whose proprietor offers and accepts payment for occupancy of rooms, sleeping accommodations, or board and lodging for a period of not more than 90 consecutive days, and retains the right of access to, and control of, the premises which are let, except that a lodging property shall not include a property which has: (1) 200 or more sleeping accommodations, or (2) a restaurant or banquet facility able to accommodate 300 or more persons.

“Permanent population” of a municipality means the population of the municipality shown in the most recent State population estimates published by the Department of Labor and Workforce Development, except that in the year of promulgation of a federal decennial census, the census figures shall be used.

“Resort municipality” means a municipality bordering the Atlantic Ocean that shall have been designated pursuant to subsection a. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), but shall not include any city of the fourth class, as defined in N.J.S.40A:6-4, with a population of over 30,000 persons according to the latest federal decennial census.

“Temporarily resident” in a municipality means an individual residing in the municipality for any period of time without becoming included in the permanent population of the municipality.

3. (New section) a. On or before November 1, 2010, and on or before November 1 of each fifth year thereafter, the New Jersey Department of Labor and Workforce Development shall identify each municipality bordering on the Atlantic Ocean, excluding any city of the fourth class as defined in N.J.S.40A:6-4 having a population of over 30,000 persons according to the latest federal decennial census, that experiences in each calendar year a period of at least three, but not more than seven consecutive months, during which the number of persons temporarily resident therein is equal to 25% or more of the municipality's permanent population. Any municipality so identified shall be designated as a resort municipality. The department shall certify such designation to the clerk and the chief financial officer of each of the municipalities so designated, and to the Director of the Division of Taxation in the Department of the Treasury. Any designation hereunder of resort municipalities for the purposes of P.L. , c. (C.) (pending before the Legislature as this bill) shall apply during the five calendar years next following such designation.

b. Upon receipt by the clerk of a municipality of certification under subsection a. of this section of the municipality's designation as a resort municipality, the governing body of the municipality shall, not later than the first day of the following calendar month, identify the geographic area of the municipality that is located within three-fourths of one mile of the main high tide line of the Atlantic Ocean, and shall by ordinance designate that area as the "_____ (name of municipality) Seaside Lodging and Rental District."

c. Not later than the 15th day following adoption of an ordinance under subsection b. of this section, the chief financial officer of the municipality or other officer as the governing body shall establish a list of lodging properties located within the resort municipality's seaside lodging and rental district, which shall include the business name, address, and owner of each property. The officer responsible for creating the list shall add thereto, and remove therefrom, the name and other information for establishments that have become, or have ceased to be, lodging properties since the list was established.

Upon the establishment or revision of a list of lodging properties, the resort municipality shall notify the owner of each lodging property affected thereby, and the Director of the Division of Taxation in the Department of the Treasury, that the owner's property is designated or de-designated, as the case may be, as lodging property. Upon notification of the designation, the lodging property owner shall register with the resort municipality. The director, in a manner determined collectively with the municipality, and shall collect those taxes described in sections 4 and 5 of P.L. , c. (C.) (pending before the Legislature as this bill) as applicable.

A new list of lodging properties within a resort municipality's seaside lodging and rental district shall be established as hereinabove provided for each five-year period with respect to which the municipality's designation as a resort municipality shall apply under subsection a. of this section.

4. (New section) In addition to any other tax, assessment, or use fee authorized by law, there is imposed and shall be paid a sales and use tax of five percent on and after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) upon the rent for every occupancy of a room of a lodging property within a seaside lodging and rental district, which every owner of such lodging property shall be required to collect from the customer when collecting the rent to which such occupancy applies. The owner of lodging property shall remit the tax to the director in the same manner as provided under the "Sales and Use Tax Act", P.L.1966, c.30

(C.54:32B-1 et seq.). The tax collected pursuant to this section shall be deposited to the General Fund.

5. (New section) In addition to any other tax, assessment, or use fee authorized by law, the governing body of every resort municipality shall impose a lodging and rental tax of two percent on and after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) upon the rent for every occupancy of a room or rooms of a lodging property within the municipality's seaside lodging and rental district, which the owner of such lodging property shall be required to collect from the customer when collecting the rent to which such occupancy applies; provided however, that no such tax shall be collected on a customer applicable to the provisions of the "Sales and Use Tax Act", P.L.1966, c.30 (C.54:32B-1 et seq.) or P.L.2003, c.114 (C.54:32D-1 et seq.). The owner of lodging property shall remit the tax to the resort municipality in the manner determined by ordinance of the resort municipality. A resort municipality shall annually appropriate 33 percent of the revenues from the tax exclusively to pay expenses that the municipality incurs for the promotion of tourism within that resort municipality.

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

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

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

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

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

(d) "Receipt" means the amount of the sales price of any tangible personal property or digital property or service taxable under this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The term "seller" includes:

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

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

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

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

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

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

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

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

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

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

(j) "Hotel" means a building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, a motel, boarding house or club, whether or not meals are served, but does not include any "lodging property" as that term is defined in section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

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

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

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

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

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

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

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

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

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

(w) "Persons required to collect tax" or "persons required to collect any tax imposed by this act" includes: every seller of tangible personal property, digital property or services; every recipient of amusement charges; every operator of a hotel; every seller of a telecommunications service; every recipient of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization; and every recipient of charges for parking, storing or garaging a motor vehicle. Said terms shall also include any officer or employee of a corporation or of a dissolved corporation who as such officer or employee is under a duty to act for such corporation in complying with any requirement of this act and any member of a partnership.

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

(y) "Property and services the use of which is subject to tax" includes: (1) all property sold to a person within the State, whether or not the sale is made within the State, the use of which property is subject to tax under section 6 or will become subject to tax when such property is received by or comes into the possession or control of such person within the State; (2) all services rendered to a person within the State, whether or not such services are performed within the State, upon tangible personal property or digital property the use of which is subject to tax under section 6 or will become subject to tax when such property is distributed within the State or is received by or comes into possession or control of such person within the State; (3) intrastate, interstate, or international telecommunications sourced to this State pursuant to section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by

amendment, P.L.1995, c.184); (5) energy sold, exchanged or delivered in this State for use in this State; (6) utility service sold, exchanged or delivered in this State for use in this State; (7) mail processing services in connection with printed advertising material distributed in this State; (8) (Deleted by amendment, P.L.2005, c.126); and (9) services the benefit of which are received in this State.

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

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

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

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

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

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

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

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

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

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

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

"Telecommunications service" shall not include:

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

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

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

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

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

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

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

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

(9) tangible personal property;

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

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

(12) internet access service;

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

(14) ancillary services; or

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

For the purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) Delivery charges;

(E) Installation charges; and

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

(2) "Sales price" does not include:

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

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

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

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

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

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

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

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

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

(D) One of the following criteria is met:

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

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

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

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

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

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

(rr) "Delivery charges" means charges by the seller for preparation and delivery to a location designated by the

purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. If a shipment includes both exempt and taxable property, the seller should allocate the delivery charge by using: (1) a percentage based on the total sales price of the taxable property compared to the total sales price of all property in the shipment; or (2) a percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment. The seller shall tax the percentage of the delivery charge allocated to the taxable property but is not required to tax the percentage allocated to the exempt property.

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

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

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

(vv) "Digital property" means electronically delivered music, ringtones, movies, books, audio and video works and similar products, where the customer is granted a right or license to use, retain or make a copy of such item. Digital property does not include video programming services, including video on demand television services, and broadcasting services, including content to provide such services.

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

(xx) "Investigation and security services" means:

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

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

(3) armored car services; and

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

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

(cf: P.L.2008, c.123, s.1)

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

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

(1) the combined rates of the fee imposed under this section, plus the tax imposed under the "Sales and Use Tax Act", P.L.1966, c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947, c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of 14%, and to the extent that the total combined rate of taxation for the listed fees and taxes would exceed 14%, the fee imposed under this section shall be reduced so that the total combined rate equals 14%;

(2) the combined rates of the fee imposed under this section, plus the tax imposed under the "Sales and Use Tax Act", P.L.1966, c.30 (C.54:32B-1 et seq.), plus any tax and assessment imposed under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a total rate of 14%, and to the extent that the total combined rate of taxation for the listed fees and taxes would exceed 14%, the fee imposed under this section shall be reduced so that the total combined rate equals 14%; and

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

b. The hotel and motel occupancy fee imposed by subsection a. of this section shall not be imposed on the rent for an occupancy if:

(1) the purchaser, user or consumer is an entity exempt from the tax imposed on an occupancy under the "Sales and Use Tax Act" pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9); or

(2) the occupancy is subject to the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

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

(cf: P.L.2006, c.44, s.18)

8. This act shall take effect on the 30th day after the date of enactment, but sections 1 through 7 shall be inoperative until September 1, 2010. The Department of the Treasury and the Department of Labor and Workforce Development may take such anticipatory administrative action in advance of the operative date as shall be necessary for the implementation of this act.

STATEMENT

This bill would require "resort municipalities," as defined in the bill (but not including Atlantic City), to

establish a "Seaside Lodging and Rental District" ("district"), an area within three-fourths of a mile from the Atlantic Ocean within that municipality, for the purpose of identifying and applying a five percent State sales tax, along with a two percent municipal lodging and rental tax, on the rent for every occupancy of a room of all "lodging properties" within the district. "Lodging properties" is defined to include any hotel, inn, motel, bed and breakfast guesthouse, house, apartment, condominium, or other establishment whose proprietor offers and accepts payment for rooms, sleeping accommodations, or board and lodging for a period of not more than 90 consecutive days, and retains the right of access to, and control of, the premises which are let, except that a lodging property shall not include a property which has:(1) 200 or more sleeping accommodations or (2) a restaurant or banquet facility able to accommodate 300 or more persons.

The five percent tax would be imposed in lieu of the seven percent State sales and use tax imposed on hotels under the "Sales and Use Tax Act", P.L.1966, c.30 (C.54:32B-1 et seq.), and the two percent municipal lodging and rental tax would be imposed in lieu of the State-imposed hotel and motel occupancy fee required pursuant to P.L.2003, c.114 (C.54:32D-1 et seq.). The bill requires that 33 percent of the revenue derived from the two percent tax be directed towards tourism marketing on behalf of the municipality.

The bill would have the effect of equitably and fairly providing a manner for taxing those lodging properties currently subject to the hotel and motel occupancy fee by including all properties, homes, condos, apartments, etc. in the application of the taxes imposed by this bill while increasing revenue to those resort municipalities by increasing the total number of lodging properties subject to the tax. Further, the bill would have the effect of increasing tourism in those municipalities as a result of the 33 percent of the revenues dedicated to the municipalities for tourism marketing purposes.