

Chapter 182

Taxation

[HISTORY: Parts 1 through 6 adopted by the Board of Supervisors (now County Legislature) of the County of Sullivan as indicated in Part histories; subsequent Parts adopted by the County Legislature of the County of Sullivan as indicated in Part histories. Amendments noted where applicable.]

Part 3

Lodging Facility Room Occupancy Tax Law

Article III

General Provisions

§182-16 Short Title

This Part 3 shall be known as the "Sullivan County Hotel and Motel Room Occupancy Tax Law" (hereinafter referred to as "Room Tax Law")."

§182-17 Intent; priority.

- A. This ~~Part 3~~ Room Tax Law is -adopted to implement the provisions of Chapter 353 of the Laws of 1989, effective July 12, 1989, enacting §1202-j of the Tax Law of the State of New York, as amended by Chapter 32 of the Laws of 2007, effective May 21, 2007, amending §1202-j of the Tax Law of the State of New York.
- B. The amount of all taxes levied by virtue of this ~~Part 3~~ Room Tax Law- shall be and become a lien upon the real property and personal property, fixtures and equipment of the owner of or operator or any officer and/or corporate stockholder, including the lodging facility or any other real property owned by them, when levied. The lien of this tax shall have priority over all other real and personal property liens in the same manner as a real property tax levied pursuant to the New York State Real Property Tax Law.

§182-18 Definitions.

Unless the context requires a different meaning, when used in this ~~Part 3~~ Room Tax Law, the following terms shall mean:

BOOKING SERVICE

A person or entity pursuant to an agreement with an operator or operators, facilitates the occupancy of a short-term rental unit for such operator or operators. A person "facilitates the occupancy of a short term rental unit" for purposes of this paragraph when the person meets both of the following conditions: (A) such person provides the forum in which, or by means of which, the sale of the

occupancy takes place or the offer of such sale is accepted, including a shop, store, or booth, an internet website, mobile device application, catalog, or similar forum; and (B) such person or an affiliate of such person collects the rent paid by a customer to an operator for the occupancy of a short term rental unit, or contracts with a third party to collect such rent.

COUNTY

The County of Sullivan (hereinafter referred to as "County").

HOTEL

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, motel, boarding house or club, whether or not meals are served.

LODGING FACILITY

~~Any shelter not owned and provided by the occupant used for lodging on an overnight basis. The term "lodging facility" includes any form of shelter not owned by or provided by the occupant.~~

OCCUPANCY

The use or possession, or the right to the use or possession, of any room in a hotel or short term rental unit

OCCUPANT

~~A person who, for a consideration, has the right to use or possess any lodging facility.~~

A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel or short term rental unit under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

OPERATOR

~~Any person operating a lodging facility in the County of Sullivan.~~

Any person operating a hotel or short term rental unit. Such term shall include a room remarketer and such room remarketer shall be deemed to operate a hotel, or portion thereof, with respect to which such person has the rights of a room remarketer.

PERMANENT RESIDENT

~~Any occupant of any lodging facility for at least 90 consecutive days shall be considered a permanent resident.~~

Any occupant of any room or rooms in a hotel or short-term rental unit for at least thirty (31) consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

PERSON

Any individual, group, entity or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of the foregoing.

REGISTRY

The County of Sullivan is required by Real Property Law §447-c to establish and maintain a registration system for short-term rental units located within the County of Sullivan. The County shall make available on its website the data necessary to allow booking services to verify the registration status of a short-term rental unit and that the unit is associated with the short-term rental host who registered the unit.

RENT

The consideration received for occupancy. Rent received by operators of lodging facilities shall be deemed as taxable unless each is supported by a written agreement providing for the exclusive possession of such Lodging Facility for a period of ~~90~~thirty (30) consecutive days or more. In the event that an occupancy is provided to an occupant free of charge or complimentary, then the standard rate applicable to that occupancy will be deemed the consideration received for the purpose of computing the tax due.

ROOM REMARKETER

A person who reserves, arranges for, conveys, or furnishes occupancy, whether directly or indirectly, to an occupant for rent in a hotel or other short-term rental unit for an amount determined by the room remarketer, directly or indirectly, whether pursuant to a written or other agreement. Such person's ability or authority to reserve, arrange for, convey, or furnish occupancy, directly or indirectly, and to determine rent therefor, shall be the "rights of a room remarketer". A room remarketer is not a permanent resident with respect to a room for which such person has the rights of a room remarketer.

SHORT-TERM RENTAL UNIT

A dwelling unit, building, room, group of rooms, or any other living or sleeping space offered for rent to guests for fewer than thirty (30) consecutive days. These rentals are intended for tourist or transient use and are provided by a short-term rental host. The term includes any form of shelter not owned or provided by the occupant and excludes spaces used solely as places of assembly. It also includes any room or portion of a hotel or short-term rental unit made available for purposes other than assembly.

It is not necessary that meals are served. A building or portion of a building may qualify as a short-term rental unit whether or not amenities, including but not limited to daily housekeeping services, concierge services, or linen services, are provided.

If a guest provides their own sleeping accommodations (e.g., a tent, camper, or RV), the Short-Term Rental Host is not required to collect Room Tax for that stay.

SHORT-TERM RENTAL HOST

A person or entity in lawful possession of a short-term rental unit who rents such unit to guests in accordance with this Room Tax Law.

TAX

The tax imposed pursuant to this ~~Part 3~~Room Tax Law and any increase, reduction or modification hereafter authorized.

TREASURER

The Treasurer of Sullivan County or the Treasurer's designee.

§182-19 Territorial limitations.

The tax imposed by this ~~Part 3~~Room Tax Law shall apply only within the territorial limits of the County of Sullivan.

§182-20 Reference to tax.

Wherever reference is made in placards, advertisements or other publications to the tax imposed by this ~~Part 3~~Room Tax Law, such reference shall be substantially in the following form: "Tax on occupancy of lodging facility rooms," except that in any bill, receipt, statement or other agreement or memorandum of occupancy or rent charge issued or employed by an operator, the words "occupancy tax" or "room tax" shall suffice.

Article IV Administration of Tax Law

§182-21 Administration.

The tax imposed by this ~~Part 3~~Room Tax Law shall be administered and collected by the Treasurer or other fiscal officers of the County as ~~he~~they may designate by such means and in such manner as are other taxes which are now collected and administered by the Treasurer or as otherwise are provided by this ~~Part 3~~Room Tax Law.

§182-22 General powers of Treasurer.

In addition to the powers granted to the Treasurer in this ~~Part 3~~Room Tax Law, the Treasurer is hereby authorized and empowered to:

- A. Make, adopt and amend rules and regulations appropriate to the carrying out of this ~~Part 3~~Room Tax Law and the purposes thereof; provided, however, that no rule or regulation shall become effective until 30 days after such rule or regulation shall have been filed with the Clerk of the County Legislature.
- B. Request information from the Tax Commissioner of the State of New York or the Treasury Department of the United States relative to any person; and to afford information to such Tax Commission or Treasury Department relative to any person, any other provision of this ~~Part 3~~Room Tax Law to the contrary notwithstanding.
- C. Delegate ~~his~~their functions hereunder to a Deputy Treasurer or any employee or employees of the Treasurer.
- D. Prescribe methods for determining the rents for occupancy and to determine the taxable

and nontaxable rents.

- E. Require any operator in Sullivan County to keep detailed records of the nature and type of ~~lodging facility~~the short-term rental unit maintained, nature and type of service rendered, rooms available and rooms occupied daily, leases or occupancy contracts or arrangements, rents received, charged and accrued, the names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax, and to furnish such information upon request to the Treasurer.
- F. Assess, determine, revise and readjust the taxes imposed under this Part 3Room Tax Law, and require the filing of estimated tax returns and payment of estimated tax where necessary.
- G. Direct the County Attorney to take such action as may be required to enforce this Part 3Room Tax Law, including but not limited to providing representation in any administrative proceeding conducted by the Treasurer or enforcement of this Part 3Room Tax Law any appropriate proceeding brought in the name of the County in any court of appropriate jurisdiction without any further authorization of the County Legislature.
- H. Where the Treasurer, in his-their discretion, deems it necessary to protect revenues to be obtained under this Part 3Room Tax Law, the Treasurer may require an operator to file with him-them a bond, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as the Treasurer may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the Treasurer determines that an operator is to file such bond ~~he-they~~ shall give notice to such operator to that effect specifying the amount of the bond required. The operator shall file such bond within five days after the giving of such notice, unless within such five days the operator shall request, in writing, a hearing before the Treasurer at which the necessity, propriety and/or amount of the bond shall be determined by the Treasurer. Such determination shall be final and shall be complied with within 15 days after the giving notice thereof. In lieu of such bond, securities approved by the Treasurer or cash in such amount as ~~he- they~~ may prescribe may be deposited which shall be kept in the custody of the Treasurer who may at any time without notice of the depositor apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him-them at public or private sale without notice to the depositor thereof.

§182-23 Administration of oaths and compelling testimony.

- A. The Treasurer or his-their employees or agents duly designated and authorized by him them shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this Part 3Room Tax Law. The Treasurer shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information

pertinent to the performance of ~~his-their~~ duties hereunder and of the enforcement of this ~~Part 3~~Room Tax Law and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before ~~him-them~~ or excused from attendance.

B. A justice of the Supreme Court, either in court or at chambers, shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the Treasurer under this ~~Part 3~~Room Tax Law.

~~C. Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the Treasurer under this Part 3 shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$1,000 or imprisonment for not more than one year, or both such fine and imprisonment.~~

~~D.C.~~ The officers who serve the summons or subpoena of the Treasurer and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers shall be the County Sheriff and ~~his-their~~ duly appointed deputies or any officers or employees of the Treasurer, designated to serve such process.

Article V Tax Rate; Persons Liable; Taxable Rent; Exemptions

§182-24 Imposition of tax.

On and after the first day of June 2007, there is hereby imposed and there shall be paid a tax of 5% upon the rent for every occupancy of a room or rooms in a ~~lodging facility~~short-term rental unit in this County, except that the tax shall not be imposed upon:

- A. Permanent residents; or
- B. Exempt organizations as hereinafter set forth.

§ 182-25 Statement of tax to be collected; person liable for payment.

- A. The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the County, and the operator shall be liable for the collection thereof and for the tax. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this ~~Part 3~~Room Tax Law, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect

to nonpayment of the tax by the occupant as if the tax were a part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that ~~he- they~~ may have in the event of nonpayment of rent by the occupant; provided, however, that the Treasurer or other fiscal officer or officers, employees or agents duly designated by ~~him-them~~ shall be joined as a co- plaintiff in any action or proceeding brought by the operator to collect or enforce collection of the tax.

- B. This tax obligation shall be deemed levied at the time that the occupant is in legal possession of the room. The obligation shall continue to be deemed levied on each day that the occupant is in legal possession of the premises. Where an occupant has failed to pay and the operator has failed to collect a tax as imposed by this Part 3 Room Tax Law, said operator shall be obligated to pay the total amount of the tax directly to the Treasurer, and it shall be the duty of the operator to file a return thereof with the Treasurer and pay the tax levied thereon to the County Treasurer within 15 days after such tax was due. In the event that the occupant or the operator fail to pay any tax imposed by this Part 3 Room Tax Law, the owner of the ~~lodging facility~~short-term rental unit shall be obligated to pay said tax to the County.
- C. For the purpose of the proper administration of this Part 3 Room Tax Law and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of providing that a rent for occupancy is not taxable hereunder shall be upon the operator.
- ~~D.~~ All taxes collected by the operator pursuant to this Part 3 Room Tax Law shall be deposited in a bank as defined by the Banking Law or a national banking association located and authorized to do business in Sullivan County. Such deposits shall be kept in a bank account, in trust for the County, separate and apart from all other accounts of the corporate operator. ~~Proof of such deposits and bank account shall be provided to the County Treasurer or his designee on a monthly basis.~~ The bank statements for such accounts shall be sent directly to the Treasurer.

§182-276 Exempt organizations.

- A. Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this Part 3 Room Tax Law:
 - i. The State of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or Canada), improvement district or political subdivision of the state.
 - ii. The United States of America, insofar as it is immune from taxation.
 - iii. Any corporation or association, trust or community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or

animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation; provided, however, that nothing in this section shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this section.

iii.iv. Temporary housing or lodging permitted by the NYS Department of Health.

- B. An organization exempt pursuant to §182-27A above shall only be exempt from the tax if the occupancy is for a lawful and proper exempt purpose of the exempt organization and for no other purpose.
- C. The operator or owner of a ~~lodging facility~~short-term rental unit shall be required to collect a tax from all occupants who are not exempt from the tax as defined in this §182-27, whether or not the operator or owner would qualify as an exempt organization pursuant to §182-27A above.

Article VI

Registration; Records; Returns; Refunds

§182-287 Registration.

- A. Within three days after commencement or opening, every operator shall file with the Treasurer an application for a certificate of authority empowering such operator to collect the tax from the occupant. Upon receipt of such application, the Treasurer shall issue a certificate of authority to such operator which, when authenticated, shall constitute the authority for the purposes of this ~~Part 3~~Room Tax Law. Each application for a certificate of authority shall state the ~~lodging facility~~short-term rental unit to which it is applicable; the name of the operator of such ~~lodging facility~~short-term rental unit, the address of such operator, the taxpayer identification number assigned to such operator, the state of incorporation and the date upon which such corporation obtained authority to do business in this state, if not organized in this state, the names of each partner, if a partnership, and such other information as the Treasurer may require. Such certificates of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificates shall not be assignable and nontransferable and shall be surrendered immediately to the Treasurer upon the cessation of business at the ~~lodging facility~~short-term rental unit named or upon its sale or transfer.
- B. Registration shall be valid for two (2) years, after which time the short-term rental host may renew their registration with the County. Registration renewals shall be done in January.
- C.
- A. A short-term rental host shall include their current, valid registration number on all offerings, listings or advertisements for short-term rental unit guest stays, including all

online platforms.

Failure of an operator to register with the Treasurer as required by §182-28A shall be punishable by a One Thousand (\$1,000.00) Dollar fine for each violation. Listing or offering a dwelling unit, or portion thereof, as a short-term rental unit without a current, valid registration shall be unlawful and shall make persons who list or offer such unit ineligible for registration for a period of twelve (12) months from the date a determination is made that a violation has occurred, together with any other remedies available by law.

D. A short-term rental host may operate a dwelling unit as a short-term rental unit provided such dwelling unit:

- i. Is registered with the County in accordance with §182-28A above;
- ii. Includes a conspicuously posted evacuation diagram identifying all means of egress from the unit and the building in which it is located;
- iii. Includes a conspicuously posted list of emergency phone numbers for police, fire, and poison control;
- iv. Has a working fire-extinguisher;
- v. Is insured by an insurer licensed to write insurance in this State or procured by a duly licensed excess line broker pursuant to the NYS insurance law for a minimum of Three Hundred Thousand (\$300,000.00) Dollars coverage for third party claims of property damage or bodily injury that arise out of the operation of a short-term rental unit. Such liability insurance coverage may be satisfied by insurance maintained by a booking service that provides equal or greater coverage if a short-term rental host lists a short-term rental unit with such booking service;
- vi. Is in compliance with any additional health and safety requirements or any other regulatory requirements applicable to short-term rental units established by the Town or Village in which such short-term rental unit is located (if any).

E. Enforcement. Pursuant to §447-f of the NYS Real Property Law, the provisions of this Room Tax Law may also be enforced by the Town or Village Code Enforcement Officer where the short-term unit is located.

F. The County may revoke the registration of a short-term rental host upon determination that the short-term rental host has violated any provision of this Room Tax Law at least three times in two (2) consecutive years and may determine that the short-term rental host shall be ineligible for registration for a period of up to twelve (12) months from the date of such determination by the County.

B-G. It shall be unlawful for a booking service to collect a fee for facilitating booking transactions for a short-term rental unit if the booking service has not verified with the County of Sullivan that the short-term rental unit has a valid registration. ****

~~Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the Treasurer requires. Such records shall be available for inspection and examination at any time upon demand by the Treasurer or their duly authorized agent or employee and shall be preserved for a period of three years, except that the Treasurer may consent to their destruction within that period or may require that they be kept longer.~~

Short-term rental hosts shall maintain records related to guest stays for two years following the end of the calendar year in which an individual rental stay occurred, including the date of each stay and number of guests, the cost for each stay, including an itemization of the sales tax and hotel and motel occupancy tax collected, and records related to their registration as short-term rental hosts with the County. Short-term rental hosts shall make such records available to local enforcement agencies (County, Town and/or Village) in which the short-term rental unit is located when lawfully requested.

§182-~~30~~29 Returns.

- A. Every operator shall file with the Treasurer a return of occupancy and of rents, and of the taxes payable thereon for the quarterly periods ending February 28, May 31, August 31 and November 30 of each year, on and after March 1, 1990. Such returns shall be filed within 20 days from the expiration of the period covered thereby. The Treasurer may permit or require returns to be made by other periods and upon such dates as ~~he~~ they may specify. If the Treasurer deems it necessary in order to ensure the payment of the tax imposed by this Part 3 Room Tax Law, ~~he~~ they may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as ~~he~~ they may specify.
- B. The forms of returns shall be prescribed by the Treasurer and shall contain such information as ~~he~~ they may deem necessary for the proper administration of this Part 3 Room Tax Law. The Treasurer may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.
- C. If a return required by this Part 3 Room Tax Law is not filed, or a return filed is incorrect or insufficient on its face, the Treasurer shall take the necessary steps to enforce the filing of such a return or of a corrected return.

§182-~~34~~0 Payment of tax.

At the time of filing a return of occupancy and of rents, each operator shall pay to the Treasurer the taxes imposed by this Part 3 Room Tax Law upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions of this Part 3 Room Tax Law even though it may be judicially determined that the tax collected is invalid. The amounts required to be billed shall be due from the operator and payable to the Treasurer on the date limited for the filing of the return for such period, without regard for whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon.

§182-3~~2~~1 **Determination of tax.**

If a return required by this ~~Part 3~~Room Tax Law is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the Treasurer from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, type of accommodations and service, number of employees and/or other factors. Notice of such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after giving of notice of such determination, shall apply to the Treasurer for a hearing, or unless the Treasurer of their own motion shall re-determine the same. After such hearing, the Treasurer shall give notice of their determination to the person against whom the tax is assessed. The determination of the Treasurer shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within 30 days after the giving of the notice of such determination. A proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless:

- A. The amount of any tax sought to be reviewed, with penalties and interest thereof, if any, shall be first deposited with the Treasurer.
- B. At the option of the applicant ~~he~~ they may file an undertaking approved by the Supreme Court with the Treasurer in a sum sufficient to cover the taxes, penalties and interest thereon stated in such determination, plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the applicant shall not be required to deposit such taxes, penalties and interest as a condition precedent to the application.

§182-3~~3~~2 **Refunds.**

- A. In the manner provided in this section the Treasurer shall refund or credit, without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the Treasurer for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the Treasurer, ~~he~~ they shall state their reason therefor in writing. Such application may be made by the occupant, operator or other person who has actually paid the tax. Such application may also be made by an operator who has collected and paid over such tax to the Treasurer, provided that the application is made within one year of the payment by the occupant to the operator, but no actual refund of moneys shall be made to such operator until ~~he~~ they shall first establish to the satisfaction of the Treasurer, that ~~he~~ they ~~has~~ve repaid to the occupant the amount for which the application for refund is made. The Treasurer may, in lieu of any refund required to be made, allow credit therefor on payments due from the applicant.
- B. An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty or interest complained of and the Treasurer

may receive evidence with respect thereto. The petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

- C. A person shall not be entitled to a revision, refund or credit under this section of a tax, interest or penalty which had been determined to be due pursuant to the provisions of §182-32 of this Part 3 Room Tax Law where ~~he has they have~~ had a hearing or an opportunity for a hearing, as provided in said section, or has failed to avail ~~himself themselves~~ of the remedies therein provided.

§182-33 **Reserves.**

In cases where the occupant or operator has applied for a refund and has instituted a proceeding under Article 78 of the Civil Practice Law and Rules to review a determination adverse to their application for refund, the Treasurer shall set up appropriate reserves to meet any decision adverse to the County.

§182-34 **Remedies exclusive.**

The remedies provided by §182-32 and §182-33 of this Part 3 Room Tax Law shall be exclusive remedies available to any person for the review of tax liability imposed by this Part 3 Room Tax Law; and no determination or proposed determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, an action for money had and received or by an action or proceeding in a nature of a certiorari proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if ~~he they~~ institutes suit within 30 days after a deficiency assessment is made and pays the amount of the deficiency assessment to the Treasurer prior to the institution of such suit and posts a bond for costs as provided in §182-32 of this Part 3 Room Tax Law.

Article VII **Enforcement of Collection of Tax, Penalties and Interest**

§ 182-35 **Proceedings to recover tax.**

- A. Whenever any operator or any officer of a corporate operator or any occupant or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this Part 3 Room Tax Law as herein provided, the County Attorney shall, upon the request of the Treasurer, bring or cause to be brought an action to enforce the payment of the same on behalf of the County of Sullivan in any court of the State of New York or of any other state or of the United States. Said action may be commenced against the operator and/or the owner of the ~~lodging facility~~short-term rental unit. If, however, the Treasurer, in their discretion, believes that any such operator, officer, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, ~~he they~~ may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately and file the warrant against the owner of the ~~lodging facility~~short-term rental unit or other

- appropriate person, upon ten (10) days' notice with the County Clerk to be recorded in the judgment docket.
- B. As an additional or alternate remedy, the Treasurer may re-levy the judgment amount in the warrant as a tax against the real property where the ~~lodging facility~~short-term rental unit is situated.
- C. As an additional or alternative remedy, where the occupant has failed to pay and the operator has failed to collect a tax as imposed by this ~~Part 3~~Room Tax Law, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the occupant directly to the Treasurer, and it shall be the duty of the occupant to file a return thereof with the Treasurer and to pay the tax imposed thereon to the Treasurer within 15 days after such tax was due.
- D. The Treasurer may, whenever ~~he~~ they deems it necessary for the proper enforcement of this ~~Part 3~~Room Tax Law, provide that the occupant shall file returns and pay directly to the Treasurer the tax herein imposed, at such times as returns are required to be filed and payment made over by the operator.

§182-36 Penalties.

A. PENALTIES FOR AN INDIVIDUAL'S FAILURE TO REGISTER A SHORT-TERM RENTAL UNIT

Listing or offering a dwelling unit, or portion thereof, as a short-term rental unit without a current, valid registration shall be unlawful and shall make persons who list or offer such unit ineligible for registration for a period of twelve (12) months from the date a determination is made that a violation has occurred, together with any other remedies available by law.

B. PENALTIES FOR BOOKING SERVICES THAT ACCEPT FEES WITHOUT CONFIRMING SHORT-TERM RENTAL REGISTRATION

The County of Sullivan has established a registry as defined in §182-18 above. As such, any booking service which collects a fee related to booking a unit as a short-term rental unit where such short-term rental unit is not registered in accordance with this article may be issued a fine by the County of Sullivan of up to five hundred dollars per day, per violation, until such violation is cured.

Any covered jurisdiction in which such unregistered short-term rental unit is located or the attorney general or the attorney general's designee may also seek an injunction from a court of competent jurisdiction prohibiting the collection of any fees relating to the offering or renting of such short-term rental unit as a short-term rental.

C. PENALTIES FOR THE FAILURE TO FILE A TIMELY TAX RETURN

Any person failing to file a return or to pay over any tax to the Treasurer within the time required by this Room Tax Law shall be subject to a penalty of 5% of the amount of tax due for each month or portion thereof and shall continue to accrue until said tax is paid in full.

D. PENALTIES FOR AN INDIVIDUAL'S FAILURE TO COMPLY WITH A VIOLATION OF THIS ROOM TAX LAW

Any person who fails to comply with any notice of violation or other order issued pursuant to this Room Tax Law by the County, Town or Village in which the short-term rental unit concerning the violation is located or by the attorney general or the attorney general's designee for a violation of any provision of this article may be fined in accordance NYS Real Property Law §447-e, as follows:

1. Except as provided in paragraph (b) of this subdivision, a short-term rental host that violates the requirements of this article shall receive a warning notice issued, without penalty, from the County. The warning notice shall detail actions to be taken to cure the violation.
2. For a third violation a fine up to two hundred (\$200.00) dollars may be imposed;
3. For each subsequent violation, a fine of up to five hundred (\$500.00) dollars per day may be imposed.
4. Upon the issuance of a violation, a seven-day period to cure the violation shall be granted. During such cure period, no further fines shall be accumulated against the short-term rental host, except where a new violation is related to a different short-term rental unit.

Nothing in this section shall supersede or limit in any way the authority of enforcement agencies for the Town or Village in which the short-term rental unit is located, or the authority of any other entity with enforcement authority over local health and safety matters, to timely enforce violations of any health and safety laws or regulations.

§182-37 Returns to be confidential.

- A. Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the Treasurer or any officer or employee of the Treasurer to divulge or make known in any manner the rents or other information relating to the business of a taxpayer contained in any return required to be filed pursuant to this ~~Part~~ 3Room Tax Law.
- B. Any violation of Subsection A shall be punishable by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both, in the discretion of the court, and if the offender be an officer or employee of the County ~~he~~ they shall be dismissed from office and be incapable of holding any public office for a period of five years thereafter.
- C. Nothing in this section shall preclude the Treasurer or their designee from disclosing information contained in a return to employees of the County Treasurer's Office, or the County Attorney, or the County Manager or their respective designee(s).

§182-38 Notices and limitations of time.

- A. Any notice required under the provisions of this ~~Part 3~~Room Tax Law may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by them pursuant to the provisions of this ~~Part 3~~Room Tax Law, or in any application made by the operator, or if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this ~~Part 3~~Room Tax Law by giving the notice shall commence to run from the date of mailing of such notice.
- B. The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the County to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this ~~Part 3~~Room Tax Law. Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of filing of a return; provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.
- C. Where, before the expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented, in writing, that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents, in writing, made before the expiration of the extended period.

Article VIII

Disposition of Revenues

§182-39 Disposition of revenues.

All revenues resulting from the imposition of the tax authorized by this ~~Part J~~Room Tax Law shall be paid to the Treasurer of the County of Sullivan and shall be credited to and deposited in the general fund of the County; thereafter 85% of the base tax collected to be allocated and paid to a not-for-profit corporation(s) under contract with the County for the promotion of tourism in the County. Provided, however, that the County shall be authorized to retain up to 15% of such revenue to defer the necessary expenses of the County in administering the tax. The County of Sullivan shall also be authorized to retain all interest and penalties collected and derived from late payment of those taxes authorized by this ~~Part~~Room Tax Law with those funds used to offset collection efforts and cost of administering the tax.

§182-40 Severability.

If any provision, paragraph, sentence or word contained in this ~~Part 3~~Room Tax Law or the application thereof to any person or circumstance be held unconstitutional, invalid or unenforceable in whole or in part by any court of competent jurisdiction, such holding of

unconstitutionality, invalidity or unenforceability shall in no way affect or impair any other provision, paragraph, sentence or word in this Part 3 Room Tax Law. Any court holding, rendering any provision, paragraph, sentence or word of this Part 3 Room Tax Law unconstitutional, invalid or unenforceable, shall be interpreted or applied in such a manner so as to give maximum force and effect to those provisions, paragraphs, sentences or words in this Part 3 Room Tax Law not addressed in the court holding.

Article IX

§182-41 – Data to be Collected

Pursuant to §447-b of the NYS Real Property Law, Booking services shall collect data related to all short-term rental unit guest stays that the booking service facilitates within the County. The data maintained by booking services shall include, but not be limited to, the dates of each stay and the number of guests, the cost for each stay, the physical address, including any unit designation, of each short-term rental unit booked, the full legal name of each short-term rental unit host, and each short-term rental unit's registration number. On the first day of every January, April, July, and October thereafter, the booking service shall report such data to the County.

The County shall share such data with all Town, or Village governments located within the County within sixty days of receiving such data and shall make such data available to any Town or Village enforcement agencies upon request. Such data and any records provided to generate such data shall not be made publicly available and are not subject to FOIL.

When Effective

§182-42 Effective date.

This Part 3 Room Tax Law shall take effect on January 1, 1990, except that the provisions of this Part 3 Room Tax Law relating to registration and the authority of the Treasurer to adopt regulations and take all necessary action to prepare for the implementation and enforcement of this Part 3 Room Tax Law shall take effect immediately. Notwithstanding anything to the contrary contained in this Part 3 Room Tax Law, if this Part 3 Room Tax Law shall be adopted less than 30 days prior to its effective date, the regulations adopted by the Treasurer after the date of such adoption and the effective date will become effective on the date of filing same with the Clerk of the County Legislature.