

LOCAL LAW NO. 13 OF 2009

A LOCAL LAW ESTABLISHING THE ORANGE COUNTY HOTEL AND MOTEL ROOM OCCUPANCY TAX.

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BE IT ENACTED, by the Orange County Legislature, as follows:

Section 01. Short Title and Statement of Intent.

This local law shall be known as the "Orange County Hotel and Motel Room Occupancy Tax Local Law."

The intent of this local law shall be to impose a tax on facilities providing lodging on an overnight basis and provide for the collection thereof in order to make funds available for deposit in the general fund of Orange County to be allocated to enhance the general economy of Orange County.

Section 02. Definitions.

When used in this local law, the following terms shall mean:

- a. **County.** Orange County, New York
- b. **Commissioner of Finance.** The Commissioner of Finance of the County of Orange

- c. **Effective Date.** The date set forth in Section 26 of this local law.
- d. **Exempt Occupant.** Any occupant of any room or rooms in a tourist home, hotel or motel whose rent is paid from public assistance from the County of Orange shall be deemed an "exempt occupant" with respect to the period of such occupancy, regardless of the length thereof.
- e. **Hotel or Motel.** A building or portion thereof which is regularly used and kept open as such for lodging on an overnight basis. The term "hotel" includes, but is not limited to, hotels, motels, tourist homes, motel courts or similar facilities, whether or not meals are served to guests or residents thereof, and shall include those facilities designated and commonly known as "bed and breakfast", "inn", "housekeeping cottages," and "tourist" facilities.
- f. **Occupancy.** The use or possession or the right to the use or possession of any room in a hotel or motel.
- g. **Occupant.** A person who, for a consideration, uses, possesses or has the right to use or possess any room in a hotel or motel under any lease, concession, permit, right of access, license to use or other agreement or otherwise.
- h. **Operator.** Any person operating a hotel or motel in the County of Orange including but not limited to the owner, proprietor, lessee, sub-lessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel or motel.
- i. **Permanent Resident.** Any person occupying any room or rooms in a hotel or motel for at least 30 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.
- j. **Person.** An individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.
- k. **Rent.** The charge and/or consideration received for occupancy valued in money, whether received in money or otherwise for the occupancy of a room in a hotel or motel for any period of time.
- l. **Return.** Any return filed or required to be filed as herein provided.
- m. **Room.** Any room or rooms or suite of rooms with sleeping accommodations, whether or not such accommodations are used, of any kind in any part or portion of a hotel which is available for or let out for any purpose.
- n. **Sheriff.** The Sheriff of Orange County.
- o. **State.** The State of New York.

Section 03. Imposition of Tax.

On and after the 15th day of September, 2009, there is hereby imposed and there shall be paid a tax of five percent upon the rent for every occupancy of a room or rooms in a hotel or motel in the County, except that the tax shall not be imposed upon (1) a permanent resident, or (2) exempt occupant.

Section 04. Transitional Provisions.

The tax imposed by this local law shall be paid upon any occupancy on and after the 15th day of September, 2009, although such occupancy is pursuant to a prior contract, lease or other arrangement. Where rent is paid on a weekly basis, the rent shall be subject to the tax imposed by this local law to the extent that it covers any period on and after September 15, 2009.

Section 05. Exempt Organizations.

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 local law:

1. The State of New York, or any of its agencies or instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), improvement districts or political subdivisions of the state;
2. The United States of America, or any of its agencies and instrumentalities, insofar as it is immune from taxation;
3. Any corporation, or association, or 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 subsection 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 subsection. Where any organization described in this subsection carries on its activities in furtherance of the purposes for which it was organized, in premises in which, as part of said activities, it operates a hotel or motel, occupancy of rooms in the premises and rents therefrom received by such corporation or association shall not be subject to tax hereunder.

Section 06. Territorial Limitations.

The tax imposed by this local law shall apply only within the territorial limits of the County of Orange.

Section 07. Registration.

1. Within ten business days after the effective date of this local law or, in the case of operators commencing business after such effective date, within three business days after such commencement or opening, every operator shall file with the Commissioner of Finance a certificate of registration in a form prescribed by the Commissioner of Finance.
2. The Commissioner of Finance shall, within five business days after such registration, issue without charge to each operator a certificate of authority empowering such operator to collect the tax from the occupant and a duplicate thereof for each additional hotel or motel of such operator. Each certificate or duplicate shall state the hotel or motel to which it is applicable. Such certificate 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 certificate shall be nonassignable and nontransferable and shall be surrendered immediately to the Commissioner of Finance upon the cessation of business of the hotel or motel named or upon its sale or transfer.

Section 08. Administration and Collection.

1. The tax imposed by this local law shall be administered and collected by the Commissioner of Finance or such other County employees as he/she may designate by such means and in such manner as are other taxes which are now collected and administered or as otherwise are provided by this local law.
2. 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 of charges 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 local 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 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 may have in the event of nonpayment of rent by the occupant; provided, however that the Commissioner of Finance or employees or agents duly designated by him/her shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.
3. The Commissioner of Finance may, wherever he/she deems it necessary for the proper enforcement of this local law, provide that the occupant shall file returns and pay directly to the Commissioner of Finance the tax imposed at such times as returns are required to be filed and payment over made by the operator.

4. For the purpose of the proper administration of this local 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 proving that a rent for occupancy is not taxable hereunder shall be upon the operator, except that, where an occupant is required to file returns and pay directly to the Commissioner of Finance the tax herein imposed, the burden of proving that a rent for occupancy is not taxable shall be upon the occupant.
5. Where an occupant claims exemption from the tax under the provision of Section 5 of this local law, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a certificate duly executed by an exempt corporation or association certifying that the occupant is its agent, representative, or employee, together with a certificate executed by the occupant that his/her occupancy is paid or to be paid by such exempt corporation or association, and is necessary or required in the course of or in connection with the occupant's duties as a representative of such corporation or association. Where deemed necessary, the operator may further require that any occupant claiming exemption from the tax furnish a copy of a certificate issued by the Commissioner of Finance certifying that the corporation or association therein named is exempt from the tax under Section 5 of this local law.

Section 09. Records to be Kept.

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 Commissioner of Finance may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Commissioner of Finance or his/her duly authorized agent or employee and shall be preserved for a period of three (3) years, except that the Commissioner of Finance may consent to their destruction within that period or may require that they be kept longer.

Section 10. Returns.

1. Every operator shall file with the Commissioner of Finance a return of occupancy and of rents and of the taxes payable thereon for the periods ending the last day of February, May, August, and November on and after the effective date of this local law. Such returns shall be filed within 20 days from the expiration of the period covered thereby. The Commissioner of Finance may permit or require returns to be made by other periods and upon such dates as he/she may specify. If the Commissioner of Finance deems it necessary in order to ensure the payment of the tax imposed by this local law, he/she 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/she may specify.
2. The forms of return shall be prescribed by the Commissioner of Finance and shall contain such information as he/she may deem necessary for the proper administration of this local law. The Commissioner of Finance may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

3. If a return required by this local law is not filed, or if a return is incorrectly filed or is insufficient on its face, the Commissioner of Finance shall take such steps as he/she deems necessary to enforce the filing of such returns or of a corrected return.

Section 11. Payment of Tax.

At the time of filing a return of occupancy and of rents, each operator shall pay to the Commissioner of Finance the taxes imposed by this local law upon the rents required to be included in such return, as well as other moneys, if any, collected by the operator acting or purporting to act under the provisions of this local law; even though it be judicially determined that the tax collected is invalidly required to be filed, it shall be due from the operator and payable to the Commissioner of Finance on the date prescribed herein for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and taxes due thereon. Where the Commissioner of Finance in his/her discretion deems it necessary to protect revenues to be obtained under this local law, he/she may require any operator required to collect the tax imposed by this local law to file with him/her 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 Commissioner of Finance 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 Commissioner of Finance determines that an operator is to file such bonds, he/she shall give notice to such operator to that effect, specifying the amount of the bond required. The operator shall file such bond within ten business days after the giving of such notice unless, within such ten business days, the operator shall request in writing a hearing before the Commissioner of Finance at which the necessity, propriety and amount of the bond shall be determined by the Commissioner of Finance. Such determination shall be final and shall be complied with within 15 business days after the giving of notices thereof. In lieu of such bond, securities approved by the Commissioner of Finance or cash in such amount as he/she may prescribe may be deposited with him/her, which shall be kept in the custody of the Commissioner of Finance, 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/her at public or private sale without notice to the depositor thereof.

Section 12. Determination of Tax.

If a return required by local law is not filed or if a return, when filed, is incorrect or insufficient, the amount of tax due shall be determined by the Commissioner of Finance 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, locations, scale of rents, comparable rents, type of accommodations and service, number of employees and/or other factors. Notice of such determination shall be given to the person liable for the collection and/or payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after giving notice of such determination, shall apply to the Commissioner of Finance for a hearing or unless the Commissioner of Finance of his/her own motion shall redetermine the same. After such hearing, the Commissioner of Finance shall give notice of his/her determination to the person against whom the tax assessed. The determination of the Commissioner of Finance shall be reviewable for error, illegality, unconstitutionality or any other recognizable basis whatsoever by proceeding under Article 78 of the Civil Practice Law and Rules if application thereof is made to the Supreme Court within 30

days after giving of the notice of such determination. A proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless the amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited with the Commissioner of Finance and there shall be filed with the Commissioner of Finance an undertaking, 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 a justice of the Supreme Court shall approve to the effect that, if such proceedings be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue, including reasonable counsel fees, in the prosecution of the proceeding, or, at the option of the applicant, such undertaking filed with the Commissioner of Finance may be in a sum sufficient to cover the taxes, penalties and interest thereon stated in such determination plus the costs and charges, including reasonable counsel fees, which may accrue against it in the prosecution of the proceedings, in which event the applicant shall not be required to deposit such taxes, penalties and interest as a condition precedent to the application.

Section 13. Disposition of Revenues.

All revenue resulting from the imposition of the tax under this local law shall be paid into the Treasury of Orange County and shall be credited to and deposited in the general fund of the County.

Section 14. Refunds.

1. In the manner provided in this Section, the Commissioner of Finance shall refund or credit, without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the Commissioner of Finance for such refund shall be made within one (1) year from the payment thereof. Whenever a refund is made by the Commissioner of Finance, he/she shall state his/her 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 Commissioner of Finance, provided that the application is made within one (1) year of the payment by the occupant to the operator, but no actual refund of moneys shall be made to such operator until he/she shall first establish to the satisfaction of the Commissioner of Finance, under such regulations as the Commissioner of Finance may prescribe, that he/she has repaid to the occupant the amount for which the application for refund is made. The Commissioner of Finance may, in lieu of any refund required to be made, allow credit therefor on payments due or to become due from the applicant.
2. 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 Commissioner of Finance may receive evidence with respect thereto. After making his/her determination, the Commissioner of Finance shall give notice thereof to the applicant, who shall be entitled to review such determination by a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided that such proceeding is instituted within 30 days after the giving of the notice of such determination, and provided that a final determination of tax due was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the Commissioner

of Finance in such amount and with such sureties as a justice of the Supreme Court shall approve to the effect that, if such proceeding be dismissed or the tax confirmed, the petitioner will pay costs and charges which may accrue in the prosecution of such proceeding.

3. 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 Section 12 of this local law where his/her has had a hearing or an opportunity for a hearing, as provided in said Section, or has failed to avail himself/herself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the Commissioner of Finance made pursuant to Section 12 of this local law unless it be found that such determination was erroneous, illegal or unconstitutional or otherwise improper by the Commissioner of Finance after a hearing or on his/her own motion or in a proceeding under Article 78 of the Civil Practice Law and Rules, pursuant to the provisions of said Section, in which event refund or credit without interest shall be made of the tax, credit/interest or penalty found to have been overpaid.

Section 15. 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 him on his application for refund, the Commissioner of Finance shall have the option of crediting future tax payments to meet the cost of any settlements or judgments or, at his option, may, in the first instance, set up appropriate reserves to meet any decision adverse to the County.

Section 16. Remedies Exclusive.

The remedies provided by Sections 12 and 14 of this local law shall be the exclusive remedies available to any person for the review of tax liability imposed by this local law, and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by any action for declaratory judgment, an action for money had and received or by any action or proceeding other than a 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/she institutes suit within 30 days after a deficiency assessment is made and pays the amount of deficiency assessment to the Commissioner of Finance prior to the institution of such suit and posts a bond for costs as provided in Section 12 of this local law.

Section 17. Proceedings to Recover Tax.

1. Whenever any operator or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this local law as herein provided, or whenever any occupant shall fail to pay any such tax, penalty or interest, the County Attorney shall, upon the request of the Commissioner of Finance bring or cause to be brought an action to enforce the payment of the same on behalf of the County of Orange in any court of the State of New York or of any other state or of the United States.

2. Notwithstanding any other provision of this Section, if the Commissioner of Finance, in its discretion, believes that any such operator, 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 to be immediately due and payable and may issue a warrant, as provided in this Section, immediately.
3. As an additional or alternate remedy, the Commissioner of Finance may issue a warrant, directed to the Sheriff, commanding him to levy upon and sell the real and personal property of the operator or officer of a corporate operator or other person liable for the tax which may be found within the County for the payment of the amount thereof, with any penalties and interest and the cost of executing the warrant, and to return such warrant to the Commissioner of Finance and to pay to him the money collected by virtue thereof within 60 days after the receipt of such warrant. The Sheriff shall, within 5 days after the receipt of the warrant, file with the County Clerk a copy thereof, and thereupon such Clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the real and personal property of the person against whom the warrant is issued. The Sheriff shall then proceed upon the warrant in the same manner and with like effect as that provided by law in respect to executions issued against property upon judgments of a court of record, and for services in executing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the Commissioner of Finance, a warrant of like terms, force and effect may be issued and directed to any officer or employee of the Commissioner of Finance, and in the execution thereof such officer or employee shall have all the powers conferred by law upon Sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the Commissioner of Finance may from time to time issue new warrants and shall also have the same remedies to enforce the amount due there under as if the County had recovered judgment therefor and execution thereon has been returned unsatisfied.
4. Whenever an operator shall make a sale, transfer or assignment in bulk of any part of the whole of his hotel or motel or its assets or his lease, license or other agreement or right to possess or operate such facility or of the equipment, furnishings, fixtures, supplies or stock of merchandise or the said premises or lease, license or other agreement or right to possess or operate such hotel or motel and the equipment, furnishings, fixtures, supplies and stock or merchandise pertaining to the conduct or operation of said hotel or motel otherwise than in the ordinary and regular prosecution of business, the purchaser, transferee or assignee shall, at least 10 days before taking possession of the subject of said sale, transfer or assignment or paying therefor, notify the Commissioner of Finance by registered mail of the proposed sale and of the price terms and condition thereof, whether or not the seller, transferor or assignor has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this local law and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing and whether any such taxes are in fact owing. Whenever the purchaser, transferee or assignee shall fail to give notice to the Commissioner of Finance as required by the preceding subsections or whenever the

Commissioner of Finance shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or chooses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over, the seller, transferor or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the seller, transferor or assignor to the County, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferor or assignor any such sums of money, property or chooses in action to the extent of the amount of the County's claim. For failure to comply with the provisions of this subsection, the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of the Uniform Commercial Code, shall be personally liable for the payment to the County of any such taxes theretofore or thereafter determined to be due to the County from the seller, transferor or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this local law.

Section 18. General Powers of the Commissioner of Finance.

In addition to the powers granted to the Commissioner of Finance by the County Law, the Orange County Charter, the Orange County Administrative Code, and this local law, he/she is hereby authorized and empowered:

1. To make, adopt and amend rules and regulations appropriate to the carrying out of this local law and the purposes thereof;
2. To extend, for cause shown, the time of filing any return for a period not exceeding 30 business days; and, for cause shown, to remit penalties but not interest computed at the rate of one per centum per annum per month or fraction thereof during which a tax is unpaid although due; and to compromise disputed claims in connection with the taxes hereby imposed;
3. To request information from the Tax Commission 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 such Treasury Department relative to any person, any other provision of this local law to the contrary notwithstanding.
4. To delegate his/her functions hereunder to a deputy of Commissioner of Finance or any employee or employees of the Commissioner of Finance.
5. To prescribe methods for determining the rents for occupancy and to determine the taxable and nontaxable rents;
6. To require any operator within the County of Orange to keep detailed records of the nature and type of hotel or motel maintained, nature and type of service rendered, the 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 imposed by this local law, and to furnish such information upon request to the Commissioner of Finance.

7. To assess, determine, revise, and readjust the taxes imposed under this local law.
8. To require any operator to submit with the return required hereunder a copy of any tax return for sales, occupancy or use taxes submitted to the Tax Commission or other instrumentality of the State New York.

Section 19. Administration of Oaths and Compelling Testimony.

1. The Commissioner of Finance or his employees or agents duly designated and authorized by him 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 local law. The Commissioner of Finance 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 duties hereunder and of the enforcement of this local 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 or excused from attendance.
2. 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 Commissioner of Finance under this local law.
3. 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 Commissioner of Finance under this local law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars (\$ 1,000.00) or imprisonment for not more than one year, or both such fine and imprisonment.
4. The officers who serve the summons or subpoena of the Commissioner of Finance 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 Sheriff and his duly appointed deputies or any officers, employees or other persons of the Commissioner of Finance designated by him/her to serve such process.

Section 20. Reference to Tax.

Wherever reference is made in placards or advertisements or in any other publications to this tax, such reference shall be substantially in the following form: "Tax on occupancy of hotel or motel rooms"; except that in any bill, receipt, statement or other evidence or memorandum of occupancy or rent charge issued or employed by the operator, the words "occupancy tax" will suffice.

Section 21. Penalties and Interest.

1. Any person failing to file a return or to pay over any tax to the Commissioner of Finance within the time required by this local law shall be subject to a penalty of five percent (5%) of the amount of tax due. In addition to the aforementioned penalty,

interest at the rate of one percent (1%) of such tax for each month of delay, excepting the first month after such return was required to be filed or such tax became due, shall accrue. The Commissioner of Finance, if satisfied the delay was excusable, may remit or waive all or any part of the penalty, but not interest owed. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this local law. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this local law.

2. Any operator or occupant and any officer of an operator or occupant failing to file a return required by this local law, or filing or causing to be filed or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this local law which is willfully false, and any operator and any officer of a corporate operator willfully failing to file a bond required to be filed pursuant to Section 12 of this local law or failing to file a registration certificate and such data in connection therewith as the Commissioner of Finance may by regulation or otherwise require or to display or surrender the certificate of authority as required by this local law or assigning or transferring such certificate of authority, and any operator or any officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed or willfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issue or employed by the operator or willfully failing or refusing to collect such tax from the occupant, any operator or any officer of a corporate operator who shall refer or cause reference to be made to this tax in a form or manner other than that required by this local law, and any such person or operator failing to keep records required by this local law, shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishable by a fine of up to \$1,000.00, imprisonment for not more than one year, or both such fine and imprisonment. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this local law and penalties and interest thereon and subject to the fines and imprisonment herein authorized.
3. The certificate of the Commissioner of Finance to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed, or that information has not been supplied pursuant to the provisions of this local law shall be presumptive evidence thereof.

Section 22. Confidential Returns.

1. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Commissioner of Finance or employee or designee of the Commissioner of Finance 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 under this local law. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Commissioner of Finance in an action or proceeding under the provisions of this local law or on behalf of any party to any action or proceeding under the provisions of this local law when the returns or facts shown thereby are directly involved in such action or proceeding, in either of

which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative of a certified copy of any return filed in connection with his tax nor to prohibit the publication of statistics so classified to prevent the identification of particular returns and the items thereof, or the inspection by the County Attorney or other legal representatives of the County or by the District Attorney of any county of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three years and thereafter until the Commissioner of Finance permits them to be destroyed.

2. Any violation of subsection (1) of this Section shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment not exceeding one (1) year, or both, in the discretion of the court.

Section 23. Notices and Limitations of Time.

1. Any notice authorized or required under the provisions of this local law may be given to the person to whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him/her pursuant to the provisions of this local law or in any application made by him/her 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 local law by the giving of notice shall commence five days after the date of mailing of such notice.
2. 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 local law. However, except in the case of a willfully false, or fraudulent return with the intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three (3) years from the date of filing of a return; provided, however, that, in the case of a return which should have been filed and has not been filed as provided by the law, the tax may be assessed at any time.
3. Where, before 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.

Section 24. Severability.

If any provision of this local law, or the application thereof to any person or circumstance, is held invalid, the remainder of this local law, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Section 25. Limitation of Effect of Local Law.

This local law shall remain in full force and effect for a period of three (3) years from the effective date of its enactment; except nothing shall prohibit or prevent the adoption and enactment of subsequent local laws continuing or imposing the tax authorized hereby after the expiration of this local law.

Section 26. Effective Date.

This local law shall take effect immediately upon filing in the Office of the Secretary of State of New York State.

STATE OF NEW YORK
COUNTY OF ORANGE
OFFICE OF THE CLERK OF
THE COUNTY LEGISLATURE }

THIS IS TO CERTIFY THAT I,

LAURIE M. WHIGHTSIL

Clerk of the County Legislature of said County of Orange, have compared the foregoing copy of Local Law with the original thereof now on file in my office and which was passed by the County Legislature of said County of Orange on the 6th day of August, 2009, 19 votes being in favor of said Local Law and 1 votes being against the same, and which was approved by the County Executive of the County of Orange on the 20th day of August, 2009 and that the same is a correct and true transcript of such original Local Law and the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of said County Legislature this 4th day of September, 2009.

Laurie M. Whightsil
CLERK OF THE COUNTY LEGISLATURE OF THE COUNTY OF ORANGE