

LOCAL LAW NO. 4 OF 2012

COUNTY OF ROCKLAND

STATE OF NEW YORK

Mr. Schoenberger offered the following Local Law, which was seconded by Mr. Grant and adopted:

A local law imposing a tax on the occupancy of hotel rooms, pursuant to article twenty-nine of the tax law of the state of New York.

Be it enacted by the legislature of the county of Rockland as follows:

Section 1. Short title.

This local law shall be known as the Rockland County Hotel Room Occupancy Tax Law.

Section 2. Definitions.

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

- A. 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.
- B. 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, a motel or a boarding house, whether or not meals are served.
- C. Occupancy. The use or possession, or the right to the use or possession, of any room in a hotel.
- D. Occupant. 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 agreements, or otherwise.
- E. Operator. Any person operating a hotel in the county of Rockland, including but not limited to the owner or proprietor of such premises, lessee, sub-leases, mortgages in possession, licensee or any other person otherwise operating such hotel.
- F. Permanent Resident. Any occupant of any room or rooms in a hotel for at least thirty consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

- G. Rent. The consideration received for occupancy valued in money, whether received in money or otherwise.
- H. Room. 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.
- I. Commissioner of Finance. The commissioner of finance of Rockland county.

Section 3. Imposition of tax.

On or after the 1st day of April, 2012, there is hereby imposed and there shall be paid a tax of three percent upon the rent for every occupancy of a room or rooms in a hotel in this county, except that the tax shall not be imposed upon a permanent resident.

Section 4. Transactional provisions.

The tax imposed by this local law shall be paid upon any occupancy on or after the 1st day of April, 2012, although such occupancy is pursuant to a prior contract, lease or other arrangement. Where rent is paid on a weekly, monthly or other term basis, the rent shall be subject to the tax imposed by this local law to the extent that it covers any period on or after the 1st day of April, 2012, and such rent shall be apportioned on the basis of the ration of the number of days falling within said period to the total number of days covered thereby.

Section 5. 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 local law:

- (1) The state of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions;
- (2) The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation;
- (3) The United Nations or any international organization of which the United States of America is a member;
- (4) Any corporation, association, trust, or community chest, fund, foundation, or limited liability company, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, (except as otherwise provided in subsection (h) of section five hundred one of the United States internal revenue code of nineteen hundred fifty-four, as amended), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

- (5) A post or organization of past or present members of the armed forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization:
- (a) organized in this state,
 - (b) at least seventy-five percent of the members of which are past or present members of the armed forces of the United States and substantially all of the other members of which are individuals who are cadets, or are spouses, widows, widowers, ancestors, or lineal descendants of past or present members of the armed forces of the United States or of cadets, and
 - (c) no part of the net earnings of which inures to the benefit of any private shareholder or individual.
- (6) The following Indian nations or tribes residing in New York state: Cayuga, Oneida, Onondaga, Poospatuck, Saint Regis Mohawk, Seneca, Shinnecock, Tonawanda and Tuscarora, where it is the purchaser, user or consumer.

B. Where any organization described in paragraph (4) of subdivision "A" of this section 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, occupancy of rooms in the premises and rents therefrom received by such corporation or association shall not be subject to tax hereunder.

Section 6. Territorial limitations.

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

Section 7. Administration and collection.

The tax imposed by this local law shall be administered and collected by the commissioner of finance or other fiscal officer of the county of Rockland by such means and in such manner as other taxes which are now collected and administered by such officers in accordance with the county charter or as otherwise may be provided by local law. All of the provisions under article twenty-eight of the tax law of the state of New York relating to or applicable to the administration and collection of the taxes imposed by that article shall apply to the taxes imposed by this local law, with the same force and effect as if those provisions had been incorporated in full into this local law except as otherwise provided in section twelve hundred fifty of the tax law.

Section 8. 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 January 1, 2012. 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 may specify. If the commissioner of finance deems it necessary in order to ensure the payment of the tax imposed by this chapter, he 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 may specify.

2. The forms of return shall be prescribed by the commissioner of finance and shall contain such information as he may deem necessary for the proper administration of this chapter. 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.

Section 9. Disposition of revenues.

All of the revenues resulting from the imposition of tax authorized by this local law shall be paid into the treasury of the county of Rockland and shall be credited to and deposited in the general fund of the county; and may thereafter be allocated at the discretion of the legislature of the county of Rockland for any county purpose.

Section 10. Penalties and interest

Any person failing to file a return or to pay or pay over any tax to the commissioner of finance within the time required by or pursuant to this local law shall be subject to a penalty of five percent of the amount of tax due. In addition to the aforementioned penalty, interest at the rate of one percent of such tax shall accrue for each additional month, not including the month when such return was required to be filed or such tax became due. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this local law. Any unpaid penalties and interest may be enforced in the same manner as the tax imposed by this local law.

Section 11. Construction and enforcement.

This local law shall be construed and enforced in conformity with articles twenty-eight and twenty-nine of the tax law of the state of New York pursuant to which the same is enacted and which are incorporated in this law by this reference.

Section 12. 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 duly authorized agent or employee and shall be preserved for a period of three years, except that the commissioner of finance may consent to their destruction within that period or may require that they be kept longer.

Section 13. Promulgation of rules and regulations.

The commissioner of finance is hereby empowered to promulgate and amend suitable rules and regulations prescribing the necessary forms for carrying into effect the provisions of this article relating to tax on the occupancy of hotel rooms.

Section 14. Severability.

If any provision of this local law or the application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law but shall be confined in its operation to the provision thereof directly involved in the controversy in which such judgment shall have been rendered and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 15. Effective date.

This local law shall take effect on the first day of April, 2012, except that certificates of registration may be filed with the commissioner of finance, and certificates of authority to collect tax may be issued by the commissioner of finance prior to said date.

The vote resulted as follows:

Ayes:	10	(Legislators Earl, Grant, Jobson, Low-Hogan, Paul, Schoenberger, Soskin, Wieder, Wolfe, Cornell)
Nays:	05	(Legislators Carey, Day, Meyers, Murphy, Sparaco)
Absent:	02	(Legislators Hood, Jr., Moroney)