Changes to Franklin County Room Occupancy Tax Law:

Title: Local Law 3 of 2024

Section 3 – Definitions

b) Effective Date – August 13, 2024

Section 4 – Imposition of Tax
On or after August 13, 2024,

Section 16 – Disposition of Revenues

(Second Paragraph) The Franklin County Legislature shall appoint a minimum of nine (9) persons to the Tourism Advisory Committee (TAC) who shall develop and propose a strategic marketing plan relative to the purpose of this section. Said plan shall be presented by the TAC to the Franklin County Legislature for approval. Once approved the Franklin County Treasurer shall distribute funds to the County's Tourism Promotion Agent (TPA) to fund the approved plan. If the plan is disapproved, the TAC shall present a revised plan to the Franklin County Legislature for consideration and final approval. Subsequent to the initial staggered terms of the Representatives the term of appointment thereafter shall be for a three (3) year term. All appointments shall be appointed by the Franklin County Legislature.

Section 22 – Reference to Tax
a)

1) a penalty of 5 per centum (5%) of the amount of tax due; plus

2) interest at the rate of one per centum (1%) of the amount of tax due for each month of delay, except that no interest shall be charged the first thirty (30) days immediately after the date such return was required to be filed or such tax became due.

Section 26 – Effect of Local Law
This local law shall remain in full force and effect until August 13, 2027.

Section 28 – Effective Date
This local law shall take effect on August 13, 2024.

LOCAL LAW 3 OF 2024
FRANKLIN COUNTY ROOM OCCUPANCY TAX LAW

Section 1 – Purpose
On August 13, 2015 Governor Cuomo signed into law Chapter 117 which authorized Franklin County to impose an occupancy tax.

Section 2 – Title & Statement of Intent
This law shall be known as the "Franklin County Room Occupancy Tax Law." The intent of this local law shall be to enhance the general economy and quality of life in Franklin County through the marketing of tourism and conventions.

Section 3 – Definitions
When used in this local law, the following terms shall mean:

a) County – Franklin County, New York

b) Effective Date – August 13, 2024

c) Hotel, Motel, Tourist Home, Inn, Cottages, Condominiums, Vacation Rentals, Bed & Breakfast and Temporary Structures – Any business regularly used and kept open as such for the lodging of guests including but not limited to hotels, motels, tourist homes, bed & breakfasts, inns, temporary structures, cottages, personal residences, vacation rentals, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated.

d) Marketing - Attracting and retaining a growing base of visitors through the process of actively promoting and distributing information on the region.

e) Occupancy - The use or possession or the right to the use or possession of any room in hotels, motels, tourist homes, bed & breakfasts, inns, cottages, personal residences, vacation rentals, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated.

f) Occupant - A person who, for a consideration, uses, possesses or has the right to use or possess any room in hotels, motels, tourist homes, bed & breakfasts, inns, cottages, personal residences, vacation rentals, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated under any lease, concession, permit, right of access, license to use or other agreement or otherwise.

g) Operator - Any person operating hotels, motels, tourist homes, bed & breakfasts, inns, cottages, personal residences, vacation rentals, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated, including but not limited to the owner or proprietor of such premises, lessee, sub lessee, mortgagee in possession, licensee or any other person otherwise operating such lodging.

h) Permanent Resident - An occupant of a room or rooms hotels, motels, tourist homes, bed & breakfasts, inns, cottages, personal residences, vacation rentals, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever

name designated, for at least thirty (30) consecutive days is considered a permanent resident with regard to the period of such occupancy.

i) 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.

j) Rent - The charge and/or consideration received for occupancy valued in money, whether received in money or otherwise.

k) Return - Any return filed or required to be filed as herein provided.

l) Room - Any room or rooms of any kind in any part or portion of hotels, motels, tourist homes, bed & breakfasts, inns, cottages, personal residences, vacation rentals, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated, which are available for or let out for any purpose other than a place of assembly.

m

m) Tax Imposition Date - The date set forth in Section 4 of this local law.

n) Tourism - The activity of an individual traveling to or staying within Franklin County for a period no less than 24 hours and for not more than one consecutive year for leisure, business and other purposes.

o) Treasurer - The Franklin County Treasurer or such other fiscal officer as may be designated by the Legislature.

Section 4 - Imposition of Tax

On or after August 13, 2024, there is hereby imposed and there shall be paid a tax of five percent (5%) of the per diem rental rate for each room or rooms hotels, motels, tourist homes, bed & breakfasts, inns, cottages, temporary structures, personal residences, vacation rentals, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated located within the County, except that such tax shall not be applicable to a permanent resident of hotels, motels, tourist homes, bed & breakfasts, inns, cottages, personal residences, vacation rentals, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated.

Section 5 - Transitional Provisions

The tax imposed by this local law shall be paid upon any occupancy on and after the date set forth in Section 4 hereof although if such occupancy is pursuant to a prior contract, lease or other arrangement entered into prior to the imposition of this local law, it shall be exempt from the occupancy tax. Where rent is paid on a weekly basis 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 date set forth in Section 4 hereof.

Section 6 - Exempt Organizations

Except as otherwise provided in this article, any use or occupancy by any of the following shall not be subject to the tax imposed by this local law:

a) The State of New York or any public corporation (including a public corporation created pursuant to agreement or compact with another

state), improvement district or political subdivisions of the state;
and

b) The United States of America, insofar as it is immune from taxation.

Section 7 - Territorial Limitations

The tax imposed by this article shall apply only within the territorial limits of Franklin County.

Section 8 - Registration Treasurer

a) Within thirty (30) days after the effective date of this local law, or in the case of an operator commencing business after such effective date within three (3) days after such commencement or opening, every operator shall file with the Treasurer a registration application in a form prescribed by the Treasurer, which identifies the subject property by tax identification number or 911 address within Franklin County.

b) The Treasurer shall, within five (5) days after receipt of registration application 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 temporary residence of such operator.

c) Each certificate shall state the hotel, motel, tourist home, inn, cottages, condominiums, vacation rentals, and bed & breakfast, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated to which it is applicable.

d) 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.

e) Certificates shall not be assignable and transferable and shall be surrendered immediately to the Treasurer upon the cessation of business at, or upon the sale or conveyance of, the hotel, motel, tourist home, inn, cottages, condominiums, vacation rentals, bed & breakfast a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated named in such certificate(s).

Section 9 - Administration and Collection

a) The tax imposed by this local law shall be administered and collected by the Treasurer, or such other employees of the County as the Treasurer 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.

b) 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.

c) The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this article, 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 she/he may have in the event of nonpayment of rent by the occupant; provided, however, that the County Treasurer or employees or agents duly designated by her/him shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

d) The Treasurer may, wherever deemed necessary for the proper enforcement of this article, provide by regulation 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 over made by the operator.

e) The tax imposed by this local law shall be paid upon any occupancy on the same cycle as reporting sales tax to NYS and after the tax imposition date, although such occupancy is pursuant to a prior contract, lease, or other arrangement made prior to such date; and where rent is paid, charged, billed or falls due on either a weekly, monthly or other term basis, the rent shall be subject to the tax herein imposed to the extent that it covers any period on and after the tax imposition date.

f) Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the Treasurer may by order provide for credit and/or refund of the amount of such tax upon application therefore as provided in Section 13 of this local law.

g) 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 providing that a rent for occupancy is not taxable hereunder shall be upon the operator or occupant.

h) Where an occupant claims exemption(s) from the tax under the provisions of Section 4 of this local law, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption.

1. a copy of a certificate issued by the Treasurer certifying that the corporation or association therein named is exempt from the tax pursuant to Section 4 of this local law, together with a certificate duly executed by the exempt organization setting forth the occupant's name and certifying that

i. the occupant is a duly authorized agent,

representative or employee of the exempt organization,

ii. the occupant's occupancy is paid or to be paid by such exempt organization, and

iii. the occupant's occupancy is necessary or required in the course and furtherance of, and/or in connection with, the affairs of said organizations: or

2. a properly completed, executed and certified Exemption Certificate from taxes imposed pursuant to Articles 28 and 29 of the New York State Tax Law, such certificate to be in the form and to contain the content approved and required by the New York State Department of Taxation.

Section 10 - Records to be Kept

a) 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 may, by regulation, require.

b) All records shall be available for inspection and examination at any time upon demand by the Treasurer or the Treasurer's duly authorized agent or employee and shall be preserved for a period of seven (7) years, except that the Treasurer may consent to their destruction within that period or may require in writing that such records be kept and maintained for a specific period in excess of seven (7) years.

Section 11 - Returns

a) After the date set forth in Section 2 of this local law, and except as provided in subdivision (b) of this section, every operator shall file with the Treasurer a return of occupancy and of rents and of the taxes payable thereon on the existing New York State Sales Tax schedule (December/January/February due March 20th, March/April/May due June 20th, June/July/August due September 20th and September/October/November due December 20th).

b) Notwithstanding paragraph (a) of this section, the Treasurer may by order

1) Require returns to be made and filed for shorter periods than those prescribed pursuant to subdivision (a) of this section, on such dates as the Treasurer may specify in such rule or order, where the Treasurer deems it necessary in order to insure the payment of the tax imposed by this local law, or

2) Permit or require returns to be made by other periods and upon such other dates as the Treasurer may specify by rule or order so as to carry out the purposes of this local law.

Section 12 - Payment of Tax

a) Any tax imposed by this local law shall be paid by the occupant to the operator or agent of the hotel, motel, tourist home, inn, cottages, condominiums, vacation rentals, bed & breakfast, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated occupied or to the person entitled to be paid the rent or charge for the hotel, motel, tourist home, inn, cottages, condominiums, vacation rentals, bed & breakfast, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated occupied for and on account of the County, and such operator or person entitled to be paid the rent or charge shall be liable for the collection and payment of tax to the County.

b) The owner, operator or agent of the hotel, motel, tourist home, inn, cottages, condominiums, vacation rentals, bed & breakfast, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated or the person entitled to be paid the rent or charge for the hotel, motel, inn, cottages, condominiums, vacation rentals, bed & breakfast, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated shall have the same right in respect to collecting the tax from the occupant, or in respect to non-payment of the tax by the occupant, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge. In any action or proceeding brought by an owner or a person entitled to be paid the rent or charge for the purpose of collecting the rent or charge, or the tax imposed by this local law, the Treasurer shall be joined as a party.

c) Each owner, operator or agent shall pay to the Treasurer, as outlined in Section 9 above, the taxes and other moneys collected by the operator acting or purporting to act under the provisions of this local law.

d) All taxes and other moneys required to be paid under and pursuant to this local law shall be due from the operator and paid to the Treasurer on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return is filed correctly shows the amount of rents and taxes due thereon.

Section 13 - Bonds & Security for Payment of Tax

a) Where the Treasurer, in the exercise of the Treasurer's discretion, deems it necessary to protect revenues to be obtained under this local law, the Treasurer may by rule or order require any operator required to collect the tax imposed by this local law to file with the Treasurer a bond to secure the payment of any tax and/or penalties and interest due or which may become due from such operator.

b) Any bond so required by the Treasurer shall be issued by a surety company authorized to transact business in this state as to solvency and responsibility, in such amount as the Treasurer may fix.

c) In the event the Treasurer determines that an operator is to file such bond she/he shall give notice to such operator to that effect specifying the amount of the bond required.

d) The operator shall file such bond within fifteen (15) days after the issuance of such notice, unless within such fifteen (15) days the operator shall serve upon and deliver to the Treasurer a written request for a hearing before the Treasurer at which the necessity, propriety and amount of the bond shall be determined by the Treasurer. Any determination by the Treasurer upon such hearing shall be final and shall be complied with by the operator within fifteen (15) days after giving of notices thereof.

e) In lieu of a bond the Treasurer, in the Treasurer's sole discretion, may accept or require

    1) Securities approved by the Treasurer in such amount as the Treasurer may prescribe, with such securities to be kept in the custody of the Treasurer, and/or

    2) Cash in such amount as the Treasurer may prescribe, with such cash to be deposited in the custody of the Treasurer.

f) The Treasurer shall have the right at any time without notice of the operator apply all or any portion of the bond(s), securities and/or cash to the payment of any tax and/or interest or penalties due, and for such purpose the Treasurer may exercise all rights under the bond(s) and/or may sell the securities at public or private sale without notice to the depositors thereof.

Section 14 - Determination of Tax

a) Upon the filing of a return, the Treasurer shall determine the amount of tax due and pursuant to this local law.

b) If a return required by this local law is not filed or if a return, when filed, is incorrect or insufficient as to the amount of tax due, the amount of the 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 the number of rooms, location, scale of rents, comparable rents, type of accommodations and service, number of employees and/or other factors.

c) Notice of a determination under subdivision (b) of this section shall be furnished in writing to the person liable for the collection and/or payment of the tax.

d) Any determination by the Treasurer under subdivision (b)of this section shall finally and irrevocably fix the tax, unless

    1) within thirty (30) days after issuance of the notice of such determination, the person against whom it is

assessed shall apply in writing to the Treasurer for a hearing, or

2) the Treasurer shall, in the Treasurer's sole discretion, reconsider and re-determine the amount of the tax due

e) Within fifteen (15) days after the conclusion of a hearing conducted pursuant to subdivision (d) (1) of this section, the Treasurer shall give written notice of the Treasurer's determination to the person against whom the tax is assessed.

f) 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 (3) years from the date of filing a return; provided, however, that

1) Where no return has been filed as provided by this local law the tax may be assessed at any time; and/or

2) 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 or any extension(s) thereof.

Section 15 - 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 constitutionally collected or paid if provided that written application for such refund shall be made to the Treasurer within one year from the payment thereof.

b) An application for refund or credit may be made only by the occupant, operator, or other person who has actually paid the tax.

c) An application for a refund or credit made as herein provided shall not be complete unless the same includes copies of all documentation and evidence upon which the applicant relies in support thereof, but nothing shall prohibit or prevent the Treasurer from receiving any other evidence with respect thereto.

d) No application for a refund or credit shall be accepted or considered unless such application has been actually received by the Treasurer within one (1) year of the payment by the tax.

e) The determination to deny or to allow a refund or credit shall be made by the Treasurer in writing, stating the reason(s) thereof, and the Treasurer shall give notice of such determination to the applicant.

f) No refund shall be made to an operator who has collected and paid over such tax to the Treasurer unless and until such operator shall first establish, to the satisfaction of the Treasurer under such regulations as the Treasurer may prescribe, that such operator has repaid to the occupant(s) the amount of tax for which refund is sought.

g) The Treasurer may, in the Treasurer's discretion and in lieu of the payment of any refund determined to be due, allow credit thereof on and against payments due from the applicant.

Section 16 - Disposition of Revenues

All revenues resulting from the imposition of the tax under the local law shall be paid into the Treasury of the County of Franklin and shall be credited to and deposited in the General Fund of the County, thereafter to be allocated for the promotion of tourism development.

The Franklin County Legislature shall appoint a minimum of nine (9) persons to the Tourism Advisory Committee (TAC) who shall develop and propose a strategic marketing plan relative to the purpose of this section. Said plan shall be presented by the TAC to the Franklin County Legislature for approval. Once approved the Franklin County Treasurer shall distribute funds to the County's Tourism Promotion Agent (TPA) to fund the approved plan. If the plan is disapproved, the TAC shall present a revised plan to the Franklin County Legislature for consideration and final approval. Subsequent to the initial staggered terms of the Representatives the term of appointment thereafter shall be for a three (3) year term. All appointments shall be appointed by the Franklin County Legislature.

The Franklin County Legislature, by resolution, shall create and appoint the Franklin County Tourism Advisory Committee (TAC) that will consist of nine (9) voting members who will each serve three (3) years. At least one member of the committee will be from the Saranac Lake area and at least one member from the Tupper Lake area referred to as the southern part of Franklin County. A suggested guideline will be as follows which is recommended but not binding.

2 representatives from accommodations
1 representative from an attraction
1 representative from recreation
1 representative from retail/restaurant
1 representative from camping
1 representative from a tourist home, inn, cottages, condominiums, vacation rental, or bed & breakfast
2 representatives from any industry (open)
Franklin County TPA (Non-Voting)

It is acknowledged the Franklin County Tourism Promotion Agent receives funding of approximately $176,000 from the Franklin County Legislature for the purposes of promoting tourism in Franklin County. It is further acknowledged that income streams from the State "I Love New York Program" will become less dependable in the years ahead.

Through the will and determination of hospitality and tourism professionals an occupancy tax will be enacted for the specific purpose of promoting tourism in Franklin County. This is because the current funding is not sufficient to sustain an effective presence in the market place.

It is acknowledged that the Tourism Promotion Agent shall continue to receive $176,000 from the County until such time as the revenue generated from the occupancy tax exceeds $350,000 annually. At such time as the revenue generated from the occupancy tax exceeds $350,000, the County's contribution to the Tourism Promotion Agent of approximately $176,000 shall be reduced dollar for dollar for each occupancy dollar generated over $350,000 until the occupancy

tax reaches $526,000 when the County's Tourism Promotion Agent contribution would be $0.

The County of Franklin shall be authorized to retain up to a maximum of 10% of such revenues to defer the necessary expenses of the County in administering the tax. Further, should administrative and/or enforcement costs associated with this local law exceed costs associated with standard operating procedure, that said additional cost be borne by occupancy tax revenue. Prior to expending any funds on additional costs, approval shall be obtained from the County Legislature.

Section 17 - Reserves

Whenever 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 such occupant or operator on such application for refund, the Treasurer shall set up appropriate reserves to meet any decision adverse to the County.

Section 18 - Remedies Exclusive

The remedies provided by Sections 12 and 13 of this local law shall be 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 an action for declaratory judgment, an action for money had and received or by an action or proceeding other than a proceeding in a nature of a certiorari proceeding under Article 78 of the Civil Practice Law and Rules pursuant to Section 23 of this local law.

Section 19 - Proceedings to Recover Tax

a) 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, the County Attorney shall, upon the request of the County Treasurer, bring or cause to be brought an action to enforce the payment of the same on behalf of Franklin County in any court of the State of New York or of any other state or of the United States.

b) Notwithstanding any other provisions of this section, if the Treasurer, in her/his 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 will not be paid when due, the Treasurer may declare such tax or penalty to be due and payable and may issue a warrant, as provided in this section, immediately.

c) As an additional or alternate remedy, the Treasurer may issue a warrant directed to the Franklin County Sheriff or to the sheriff of any other county commanding him/her to levy upon and sell the real and personal property of the operator, occupant or other person, including but not limited to any partner, corporate officer/director/shareholder, or member, liable for the tax, which may be found within his/her 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 Treasurer and to pay to the Treasurer the money collected by virtue thereof within sixty (60) days after the receipt of such warrant.

d) The Sheriff receiving a warrant issued under this section shall, within five (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.

e) Upon filing a copy of the warrant as provided in paragraph (d) of this section,

1) 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, provided that such lien shall not apply to personal property unless another copy of such warrant is filed in the New York Department of State.

2) 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 and upon judgments of a court of record, and, for services in executing the warrant, he/she shall be entitled to the same fees, which he/she may collect in the same manner; and

3) the Treasurer shall have the same remedies to enforce the amount due hereunder as if the County had recovered judgment therefore.

f) If a warrant is returned not satisfied in full, the Treasurer may from time to time issue new warrants and shall also have the same remedies to enforce the amount due hereunder as provided in this section.

g) Whenever an operator or other person shall make a sale, transfer or assignment in bulk of any part or the whole of his/her hotel, motel, tourist home, inn, cottages, condominiums, vacation rentals, bed & breakfast, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever name designated or of such operator's business assets, otherwise than in the ordinary course of business, the following provisions shall apply:

i. the purchaser, transferee or assignee shall, at least twenty (20) days before taking possession of the subject of said sale, transfer or assignment or paying therefore, notify the Treasurer by registered mail of the proposed sale and of the price, terms and conditions thereof and whether or not the operator 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.

ii. for failure to comply with the provisions of this paragraph, including but not limited to subdivision (1) above, the purchaser, transferee or assignee 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.

iii. whenever the purchaser, transferee or assignee shall fail to give notice to the Treasurer as required by subdivision (1) of this paragraph, or whenever the Treasurer shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sum of money, property or chooses in action or other consideration which the purchaser, transferee or assignee is required to transfer over to 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;

iv. within twenty-one (21) calendar days of receipt of the notice of the sale, transfer or assignment from the purchaser, transferee or assignee, given in person by certified mail return receipt requested the Treasurer shall give notice to the purchaser, transferee or assignee and to the operator, seller, transferor or assignor, of the total amount of any tax or taxes, as well as of any penalties or interest due thereon, which the Treasurer claims to be due from the operator seller, transferor or assignor, to the County;

v. whenever the Treasurer shall fail to give the notice required by subdivision (4) of the paragraph, within twenty-one (21) days from receipt of the notice of sale, transfer and assignment required by subdivision (1) of this paragraph, such failure shall release the purchaser, transferee or assignee from any further obligation to withhold any sum of money, property or chooses in action, or other consideration, which the purchasers, transferee or assignee is required to transfer over to the operator, seller, transferor or assignor;

vi. upon receipt of the Treasurer's notice issued pursuant to subdivision (4) above stating the total amount of the County's claim, the purchaser, transferee or assignee may make payment of such claim to the Treasurer from any sums of money, property, or chooses in action withheld in accord with the provisions of subdivision (3) of this paragraph, and upon making such payments to

the purchaser, transferee or assignee shall be relieved of all liability for such amounts paid to the operator, seller, transferor or assignor, and such amounts to the operator, seller, transferor or assignor, and such amounts paid to the Treasurer shall be deemed satisfaction of the tax liability of the operator, seller, transferor or assignee to the extent of the amount of such payment.

h) Whenever the liability of any operator or other person, including that of any purchaser, transferee or assignee, covered by this section has been wholly paid or satisfied or no longer exists, except where the liability is discharged by an order or decree in bankruptcy, the Treasurer shall a) Mail to such operator or other person a notice, addressed to the last known address of such operator or other person setting forth

i. The amount of the tax liability paid or satisfied,

ii. That such liability has been wholly paid or satisfied or no longer exists, and

iii. A statement to the effect that consumer reporting agencies must delete from a credit file any reference to the particular tax lien or claim within thirty (30) days of receipt from such operator or other person of a copy of such notice.

Section 20 - General Powers of the Treasurer

In addition to the powers granted to the County Treasurer by the County Law and this article, she/he is hereby authorized and empowered to:

a) make, adopt and amend rules and regulations appropriate to the carrying out of this article and the purposes thereof;

b) extend, for cause shown, the time of filing any return for a period not exceeding thirty (30) days; and for cause shown, to remit or waive penalties, but not interest, and to compromise disputed claims in connection with the taxes hereby imposed;

c) 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 article to the contrary notwithstanding;

d) delegate her/his functions hereunder to any employee or employees of the County Treasurer;

e) prescribe methods for determining the rents for occupancy and to determine the taxable and nontaxable rents;

f) require any operator within the County to keep detailed records of the nature and type of hotel, motel, tourist home, inn, cottages, condominiums, vacation rentals, and bed & breakfast, a facility on a campground whereby said facility is owned by said campground, temporary structures or similar type of accommodations by whatever

name designated maintained, the nature and type of service rendered, the rooms available and rooms occupied daily, the leases or occupancy contracts or arrangements, the rents received, charged and accrued and the names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax imposed by this article, and to furnish such information upon request to the County Treasurer;

g) assess, determine, revise and readjust the taxes imposed under this local law as may be approved by the Franklin County Legislature.

Section 21 - Administration of Oaths & Compelling Testimony

a) The Treasurer, or the Treasurer's duly designated and authorized employee(s) or agent(s) shall have the power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of his powers and duties under this local law.

b) The Treasurer shall have the 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 her/his duties hereunder and the enforcement of this article 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 her/him or excused from attendance.

c) 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 local law.

d) 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 local law 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.

e) 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.

f) The County Sheriff, the Sheriff's duly appointed deputies, and any officer or employee of the Treasurer designated to serve process under this local law, are hereby authorized and empowered to serve and summons, subpoena, order, notice, document, instrument, or other process to enforce or carry out this local law.

Section 22 - Reference to Tax

a) Any person failing to file a return or to pay or pay over any tax to the Treasurer within the time required by this article shall be subject to

1) a penalty of 5 per centum (5%) of the amount of tax due; plus

2) interest at the rate of one per centum (1%) of the amount of tax due for each month of delay, except that no interest shall be charged the first thirty (30) days immediately after the date such return was required to be filed or such tax became due.

b) Notwithstanding the provisions in paragraph (a) of this section, the Treasurer may, if satisfied that the delay was excusable, cancel and remit all or part of such penalty, but shall not cancel or remit any portion of the interest.

c) All penalties and interest shall be paid and disposed of in the same manner as the tax imposed by this local law.

d) Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this local law.

e) Officers and/or members of an owner or operator which is a corporation, limited liability company, limited liability partnership, or partnership shall be personally liable for the tax collected or required to be collected and paid by such corporation under this local law, and shall also be personally liable for the penalties and interest herein imposed.

f) In addition to the penalties herein or elsewhere prescribed, any person found to have committed any of the following acts 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 (1) year, or both such fine and imprisonment:

1) Failing to file a return required by this local law,

2) Filing or causing to be filed, or making or causing to be made, or giving or causing to be given, any return or certificate, affidavit, representation, information, testimony or statement required or authorized by this local law which is willfully false,

3) Willfully failing to file a bond required to be filed pursuant to this local law,

4) Failing to file a registration certificate and such data in Connection therewith as the Treasurer may by order, regulation or otherwise require,

5) Failing to display, or to surrender upon demand of the Treasurer, the certificate of authority as required by this local law,

6) Assigning or transferring such a certificate of authority,

7) 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,

8) Willfully failing or refusing to collect any tax imposed by this local law from the occupant,

9) Referring or causing reference to be made to this tax in a form or manner other than that required by this local law, or

10) Failing to keep or maintain the records required by this local law.

Section 23 - Judicial Review

Any final determination of the amount of any tax payable pursuant to this local law, as well as any final determination on an application or refund or credit under Section 13 of this local law, shall be reviewed for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefore is made to the supreme court within thirty (30) days after giving the notice of such final determination, provided however, that any such 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 such interest and penalties thereon as may be provided for by local law or regulation shall be first deposited and there is files and 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 proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceedings; or

b) At the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, interests and penalties stated in such determination plus the costs and the charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to any tax imposed pursuant to this section shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the proper fiscal officer or officers, and such officer or officers shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article 78 of the Civil Practice Law and Rules, provided, however, that such proceeding is instituted within thirty (30) days after giving the notice of such denial, that a final determination of tax due was not previously made, and that such an undertaking is filed within the proper fiscal officer or officers in such amount and with such sureties as a justice of the supreme court shall approve the effect that is such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

Section 24 - Returns to be Secret

a) Except in accordance with proper judicial order or as otherwise provided by law,

1) it shall be unlawful for the Treasurer or any agent, employee or designee 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 under this local law; and

2) 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 Treasurer in any action or proceeding under the provisions of this article or on behalf of any party to any action or proceeding under the provisions of this article 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 not more.

b) Notwithstanding the provisions of paragraph (a) of this section, nothing herein of the County, or by the district attorney of any county, of the return(s) 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.

c) Returns shall be preserved by the Treasurer for not less than three (3) years or for such longer period of time as the Treasurer determines.

d) Any violation of paragraph (a) of this section 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, such officer or employee shall be dismissed from office or service with the County.

Section 25 - Notices of Limitations of Time

a) Any notice authorized or required under the provisions of this local 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 pursuant to the provisions of this local law, or in any application made by such person, or if no return has been filed or application made then to such address as may be obtainable.

b) The mailing of such notice shall be presumptive evidence of the receipt of the same person to who addressed.

c) Any period of time which is determined according to the provisions of this local law by the giving of notice shall commence to run from the date of mailing of such notice.

d) 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.

Section 26 - Effect of Local Law
This local law shall remain in full force and effect until August 13, 2027.

Section 27 - Separability
If any provision of this local law or the application thereof to any person or circumstance shall be 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 28 - Effective Date
This local law shall take effect on August 13, 2024.