

2025 Regular Session

HOUSE BILL NO. 374

BY REPRESENTATIVE MCFARLAND

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/SALES & USE: Includes accommodations intermediaries within the definition of a marketplace facilitator for purposes of collection and remittance of sales and use taxes on remote sales

1 AN ACT

2 To amend and reenact R.S. 47:340.1(A), relative to collection and remittance of sales and
3 use taxes; to provide for the collection and remittance of taxes on certain remote
4 sales; to provide for definitions; to provide for an effective date; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:340.1(A) is hereby amended and reenacted to read as follows:

8 §340.1. Marketplace facilitators; collection and remittance of state and local sales
9 and use tax

10 A. Definitions. For purposes of this Section, the following words and phrases
11 shall have the following meanings, unless the context clearly indicates otherwise:

12 (1) "Accommodations intermediary" means a person other than the owner,
13 operator, or manager of a sleeping room, cottage, cabin, room, suite, condominium,
14 townhouse, rental house, or other accommodation who facilitates the furnishing of
15 an accommodation to a transient guest through a marketplace owned, operated, or
16 otherwise controlled by the person. An accommodations intermediary shall be
17 considered a "marketplace facilitator" pursuant to the provisions of Subparagraph
18 (5)(a) of this Subsection. An accommodations intermediary shall not include any
19 person included in Subparagraph (5)(b) of this Subsection.

1 ~~(1)~~(2) "Affiliate" means an entity that owns more than five percent of the
2 other entity or both entities are subject to the control of a common entity that owns
3 more than five percent of each of the other entities.

4 ~~(2)~~(3) "Commission" means the Louisiana Sales and Use Tax Commission
5 for Remote Sellers set forth in this Chapter.

6 ~~(3)~~(4) "Marketplace" means any physical or electronic platform or forum,
7 owned, operated, or otherwise controlled by the marketplace facilitator, through
8 which a marketplace seller may sell or offer for sale tangible personal property,
9 digital products, or sales of services for delivery into Louisiana.

10 ~~(4)~~(a)~~(5)~~(a) "Marketplace facilitator" means any person, including an
11 accommodations intermediary, that facilitates a sale for a marketplace seller through
12 a marketplace, owned, operated, or otherwise controlled by the person, by any of the
13 following:

14 (i) Offering for sale through any means, by a marketplace seller, tangible
15 personal property or sales of services for delivery into Louisiana.

16 (ii) Collecting payment from the purchaser and transmitting all or part of the
17 payment to the marketplace seller, regardless of whether the person receives
18 compensation or other consideration in exchange for facilitating the sale or providing
19 any other service directly or indirectly through any agreement or arrangement with
20 one or more third parties.

21 (b) "Marketplace facilitator" shall not include any of the following:

22 (i) A payment processor that only handles the processing of payments
23 between the marketplace facilitator and the purchaser.

24 (ii) A platform or forum that provides advertising services, including listing
25 products for sale, so long as the advertising service platform or forum does not also
26 engage directly or indirectly through one or more affiliated persons in the activities
27 described in Item (a)(ii) of this Paragraph.

28 (iii) A derivatives clearing organization, a designated contract market,
29 foreign board of trade or swap execution facility, registered with the Commodity

1 Futures Trading Commission (CFTC registered platforms), and any clearing
2 members, futures commission merchants, or brokers when using the services of
3 CFTC registered platforms.

4 (iv) Any person who offers or facilitates the furnishing of ~~sleeping rooms,~~
5 ~~cottages or cabins by hotels or who offers or facilitates the furnishing of~~ rental cars
6 by rental car companies.

7 ~~(5)~~(6) "Marketplace seller" means a person who sells or offers for sale
8 tangible personal property, digital products, or sales of services for delivery into
9 Louisiana through a marketplace that is owned, operated, or controlled by a
10 marketplace facilitator.

11 ~~(6)~~(7) "Remote sale" means a sale made by a remote seller or a sale
12 facilitated by a marketplace facilitator.

13 ~~(7)~~(8) "Remote seller" means a seller who sells for sale at retail, use,
14 consumption, distribution, or for storage to be used for consumption or distribution
15 any taxable tangible personal property, products transferred electronically, or
16 services for delivery within Louisiana, but does not have a physical presence in
17 Louisiana.

18 ~~(8)~~(9) "Secretary" means the secretary of the Department of Revenue.

19 * * *

20 Section 2. This Act shall become effective on July 1, 2025.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 374 Engrossed

2025 Regular Session

McFarland

Abstract: Adds "accommodations intermediaries" to the list of dealers considered marketplace facilitators for purposes of collecting and remitting state and local sales and use taxes on remote sales delivered into La.

Present law provides relative to imposition, administration, and collection of state and local sales and use tax on remote sales. Dealers for remote sales known as marketplace facilitators are responsible for all obligations imposed on dealers pursuant to present law and are required to keep records and information required by the La. Sales and Use Tax Commission for Remote Sellers to ensure proper collection and remittance of sales and use tax.

Present law defines "remote sale", "marketplace", "marketplace seller", "marketplace facilitator", and other key terms for purposes of present law. Provides that a "marketplace facilitator", with limited exceptions, means any person that facilitates a sale for a marketplace seller through a marketplace, owned, operated, or otherwise controlled by the person, by any of the following:

- (1) Offering for sale through any means, by a marketplace seller, tangible personal property or sales of services for delivery into La.
- (2) Collecting payment from the purchaser and transmitting all or part of the payment to the marketplace seller.

Present law excludes all of the following persons from the definition of "marketplace facilitator":

- (1) A payment processor that only handles the processing of payments between the marketplace facilitator and the purchaser.
- (2) A platform or forum that provides advertising services as long as the advertising service platform or forum does not also engage directly or indirectly through one or more affiliated persons in the activities collecting payment from a purchaser and transmitting the payment to the marketplace seller.
- (3) A derivatives clearing organization, a designated contract market, foreign board of trade or swap execution facility, registered with the Commodity Futures Trading Commission (CFTC registered platforms), and any clearing members, futures commission merchants, or brokers when using the services of CFTC registered platforms.
- (4) Any person who offers or facilitates the furnishing of sleeping rooms, cottages, or cabins by hotels or who offers or facilitates the furnishing of rental cars by rental car companies.

Proposed law retains present law with respect to the duties and responsibilities of marketplace facilitators but changes the definition of "marketplace facilitator" to include an accommodations intermediary who offers or facilitates the furnishing of sleeping rooms, cottages, or cabins by hotels.

Proposed law defines an "accommodations intermediary" as a person other than the owner, operator, or manager of a sleeping room, cottage, cabin, room, suite, condominium, townhouse, rental house, or other accommodation who facilitates the furnishing of an accommodation to a transient guest through a marketplace owned, operated, or otherwise controlled by the person.

Effective July 1, 2025.

(Amends R.S. 47:340.1(A))