

2025 Regular Session

HOUSE BILL NO. 374

BY REPRESENTATIVE MCFARLAND

1 AN ACT

2 To amend and reenact R.S. 47:340.1(A) and to enact R.S. 47:340.1(G), relative to collection
3 and remittance of sales and use taxes; to provide for the collection and remittance of
4 taxes on certain remote sales; to provide for definitions; to provide for an effective
5 date; and to provide for 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 and R.S. 47:340.1(G)
8 is hereby enacted to read as follows:

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

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

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

21 ~~(1)~~(2) "Affiliate" means an entity that owns more than five percent of the
22 other entity or both entities are subject to the control of a common entity that owns
23 more than five percent of each of the other entities.

1 ~~(2)~~(3) "Commission" means the Louisiana Sales and Use Tax Commission
2 for Remote Sellers set forth in this Chapter.

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

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

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

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

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

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

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

25 (iii) A derivatives clearing organization, a designated contract market,
26 foreign board of trade or swap execution facility, registered with the Commodity
27 Futures Trading Commission (CFTC registered platforms), and any clearing
28 members, futures commission merchants, or brokers when using the services of
29 CFTC registered platforms.

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

4 (v) Shared hotel brand.

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

9 ~~(6)~~(7) "Remote sale" means a sale made by a remote seller or a sale
 10 facilitated by a marketplace facilitator.

11 ~~(7)~~(8) "Remote seller" means a seller who sells for sale at retail, use,
 12 consumption, distribution, or for storage to be used for consumption or distribution
 13 any taxable tangible personal property, products transferred electronically, or
 14 services for delivery within Louisiana, but does not have a physical presence in
 15 Louisiana.

16 ~~(8)~~(9) "Secretary" means the secretary of the Department of Revenue.

17 (10) "Local occupancy tax" means a tax levied by a local taxing authority
 18 upon the furnishing or occupancy of sleeping rooms, hotel rooms, motel rooms,
 19 overnight camping facilities, or any other similar accommodation or establishment
 20 authorized under the Louisiana Revised Statutes of 1950, including but not limited
 21 to Title 33 and Title 47, to levy occupancy taxes.

22 (11) "Local taxing authority" means parishes, municipalities, special taxing
 23 districts, political subdivisions, parish governing bodies, and commissions created
 24 pursuant to R.S. 33:4574(B) that are authorized under the Louisiana Revised Statutes
 25 of 1950, including but not limited to Title 33 and Title 47, to levy occupancy taxes.

26 (12) "Shared hotel brand" means an identifying trademark that an owner,
 27 operator, or manager is expressly licensed to operate a hotel under, in accordance
 28 with the terms of a hotel franchise or management agreement.

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