WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

House Bill 5065

By Delegates D. Cannon, B. Ward, Phillips, McGeehan, Shamblin, Kyle, Browning, and Hillenbrand

[Originating in the Committee on Government Organization; Reported on February 24, 2026]

A BILL to amend and reenact §7-18-4 of the Code of West Virginia, 1931, as amended, relating to hotel occupancy tax; clarifying what information needs to be recorded; requiring geofencing to provide an accurate basis for tax collection; and requiring marketplace facilitator use a nine-digit postal code when necessary in order to guarantee the collected tax is being remitted to the proper political subdivision

Be it enacted by the Legislature of West Virginia:

ARTICLE 18. HOTEL OCCUPANCY TAX.

§7-18-4. Consumer to pay tax; collection of tax by marketplace facilitators; hotel, hotel operator, or marketplace facilitator not to represent that it will absorb tax; accounting by hotel and marketplace facilitators.

(a) The consumer shall pay to the hotel operator the amount of tax imposed by any municipality or county hereunder, which tax shall be added to and shall constitute a part of the consideration paid for the use and occupancy of the hotel room, and which tax shall be collectible as such by the hotel operator who shall account for, and remit to the taxing authority, all taxes paid by consumers. The hotel operator shall separately state the tax authorized by this article on all bills, invoices, accounts, books of account, and records relating to consideration paid for occupancy or use of a hotel room. The hotel operator may commingle taxes collected hereunder with the proceeds of the rental of hotel accommodations unless the taxing authority shall, by ordinance, order, regulation, or otherwise require in writing the hotel operator to segregate such taxes collected from such proceeds. The taxing authority's claim shall be enforceable against, and shall be superior to, all other claims against the moneys so commingled excepting only claims of the state for moneys held by the hotel pursuant to the provisions of §11-15-1 *et seq*. of this code. All taxes collected pursuant to the provisions of this article shall be deemed to be held in trust by the hotel until those taxes shall have been remitted to the taxing authority as hereinafter provided.

(b) *Economic nexus and duty of certain marketplace facilitators to collect tax*. — Where a hotel or hotel operator contracts with a marketplace facilitator to offer the use or occupancy of a hotel room, such marketplace facilitator shall be responsible, on behalf of the hotel or hotel operator, for the collection and remittance of the tax imposed by any municipality or county pursuant to this article when:

(1) The marketplace facilitator makes or facilitates West Virginia sales on its own behalf or on behalf of one or more hotel or hotel operators equal to or exceeding $100,000 in gross revenue for an immediately preceding calendar year, or a current calendar year; or

(2) The marketplace facilitator makes or facilitates West Virginia sales on its own behalf or on behalf of one or more hotel or hotel operators in 200 or more separate transactions for an immediately preceding calendar year or a current calendar year.

For purposes of this section, a marketplace facilitator meeting the requirements of this subsection is deemed to be an agent of any hotel or hotel operator making retail sales through the marketplace facilitator’s physical or electronic marketplace.

(c) *Collection and remittance of tax by marketplace facilitators*. —

(1) Where a marketplace facilitator is responsible for the collection and remittance of the tax imposed pursuant to subsection (b) of this section, the marketplace facilitator shall separately state the tax authorized by this article on all bills, invoices, accounts, books of account, and records relating to consideration paid for the occupancy or use of a hotel room.

(2) Where a hotel or hotel operator contracts with a marketplace facilitator to offer the use or occupancy of a hotel room, such marketplace facilitator shall maintain records of every hotel or hotel operator and such records shall include:

(A) The name of hotel, short term rental, or vacation rental where the lodging occurred;

(B) The name of the hotel, motel, short term rental, or vacation rental owner;

(C) The address where the lodging occurred;

(D) The dates when the lodging occurred;

(E) The amount of tax received as required under this article;

(F) The date the amount of tax was received; and

(G) Whether the tax received was a municipality or county tax.

(3) A marketplace facilitator shall use geofencing or a similar mechanism to provide an accurate basis for occupancy tax collection.

(4) A marketplace facilitator shall use a nine-digit postal code when necessary in order to guarantee the collected tax is being remitted to the proper political subdivision.

(5) All taxes collected pursuant to the provisions of this article shall be deemed to be held in trust by the marketplace facilitator, on behalf of the hotel or hotel operator, until those taxes have been remitted by the marketplace facilitator to the taxing authority in accordance with §7-18-10 of this code and the marketplace facilitator shall remit such tax to the county treasurer for lodging taxes for county convention and visitors bureaus, and to the municipal treasurer, clerk, or recorder however dictated by municipal charter where a municipality has a convention and visitors bureau that is due the tax: *Provided*, That nothing in this section shall be construed to interfere with the ability of a marketplace facilitator and a hotel or hotel operator to enter into an agreement regarding fulfillment of the requirements of §7-18-1 *et seq*. of this code.

(d) *Effective date*. — The amendments to this section enacted during the regular session of the Legislature, 2021, shall apply to sales by a marketplace facilitator made on and after January 1, 2022.

(e) A hotel, hotel operator, or marketplace facilitator shall not represent to the public in any manner, directly or indirectly, that it will absorb all or any part of the tax or that the tax is not considered an element in the price to be collected from the consumer.

NOTE: The purpose of this bill is to provide that the proper political subdivision is receiving the collected occupancy tax from a marketplace facilitator.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.