

1 AN ACT relating to marketplace contractors.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Marketplace contractor" means a person or entity that enters into an*
7 *agreement with a marketplace platform to use its digital network or mobile*
8 *application to receive connections to third party individuals or entities*
9 *seeking services.*

10 *(b) "Marketplace platform" means a person or entity that:*

- 11 *1. Offers a digital network or mobile application that connects*
12 *marketplace contractors to third-party individuals or entities seeking*
13 *the type of services offered by a marketplace contractor; and*
14 *2. Accepts service requests from the public exclusively through its digital*
15 *network or mobile application.*

16 *(2) A marketplace contractor shall not be deemed to be an employee of a marketplace*
17 *platform for any purpose so long as:*

18 *(a) The marketplace platform and the marketplace contractor agree in writing*
19 *that the marketplace contractor is an independent contractor with respect to*
20 *the marketplace platform;*

21 *(b) The marketplace platform does not unilaterally prescribe specific hours*
22 *during which the marketplace contractor must be available to accept service*
23 *requests from third party individuals or entities submitted through the*
24 *online-enabled application, software, Web site, or system of the marketplace*
25 *platform;*

26 *(c) The marketplace platform does not prohibit the marketplace contractor*
27 *from using any online-enabled application, software, Web site, or system*

- 1 offered by another marketplace platform;
- 2 (d) The marketplace platform does not restrict the marketplace contractor from
- 3 engaging in another occupation or business; and
- 4 (e) The marketplace contractor bears all or substantially all of the expenses
- 5 incurred by the marketplace contractor in performing the services.
- 6 (3) For services performed by a marketplace contractor prior to the effective date of
- 7 this Act, the marketplace contractor shall be treated as an independent contractor
- 8 of the marketplace platform and not as an employee of the marketplace platform,
- 9 if the requirements set forth in subsection (2) of this section were met at the time
- 10 at which the services were performed.
- 11 (4) This section shall not apply to:
- 12 (a) Services performed in the employ of a state, or any political subdivision of a
- 13 state, or in the employ of an Indian tribe, or any instrumentality of a state,
- 14 any political subdivision of a state or any Indian tribe that is wholly owned
- 15 by one (1) or more states or political subdivisions or Indian tribes, provided
- 16 the service is excluded from employment as defined in 26 U.S.C. secs. 3301
- 17 to 3311; or
- 18 (b) Service performed in the employment of a religious, charitable, educational,
- 19 or other organization that is excluded from employment as defined in 26
- 20 U.S.C. secs. 3301 to 3311, solely by reason of 26 U.S.C. sec. 3306(c)(8).

21 ➔Section 2. If any provisions of this Act or its application to any person or

22 circumstance is held invalid, the invalidity does not affect other provisions or applications

23 of the Act which can be given effect without the invalid provision or application, and to

24 this end the provisions of this Act are severable.