

1 INTERIM STUDY PROPOSAL 2021-065

2 State of Arkansas

As Engrossed: S2/22/21

3 93rd General Assembly

A Bill

4 Regular Session, 2021

SENATE BILL 253

5
6 By: Senator Beckham

7 By: Representatives Lynch, *Coleman*

8 Filed with: Arkansas Legislative Council

9 pursuant to A.C.A. §10-3-217.

10 For An Act To Be Entitled

11 AN ACT TO AMEND THE SALES TAX TREATMENT OF UTILITIES
12 USED FOR CERTAIN QUALIFYING AGRICULTURAL STRUCTURES;
13 TO DEFINE THE TERM “AGRICULTURE”; AND FOR OTHER
14 PURPOSES.

15 16 17 Subtitle

18 TO AMEND THE SALES TAX TREATMENT OF
19 UTILITIES USED FOR CERTAIN QUALIFYING
20 AGRICULTURAL STRUCTURES; AND TO DEFINE
21 THE TERM “AGRICULTURE.”

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23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Arkansas Code § 26-52-450(a) and (b), concerning the
27 definitions under the sales tax exemption for certain utilities used for
28 qualifying agricultural structures, are amended to read as follows:

29 (a) As used in this section:

30 (1) “Agriculture” means soil preparation, seed planting, crop
31 harvesting, gardening, and viticulture;

32 ~~(1)(2)~~ “Aquaculture” means the active cultivation of
33 domesticated fish;

34 ~~(2)(3)~~ “Domesticated fish” means fish that are spawned, grown,
35 managed, harvested, and marketed on an annual, semiannual, biennial, or
36 short-term basis in waters that are confined within a pond, tank, or lake

1 that is situated entirely on the premises of a single owner and that, except
2 under abnormal flood conditions, are in no way connected by water or with any
3 other:

- 4 (A) Flowing stream or body of water; or
- 5 (B) Body of water not situated on the premises of the
6 owner;

7 ~~(3)(A)~~(4)(A) "Horticulture" means the initial production and
8 cultivation of fruits, vegetables, tree nuts, trees, shrubs, vines, and
9 florist stock.

- 10 (B) "Horticulture" does not include the cultivation of
11 fruits, vegetables, tree nuts, trees, shrubs, vines, and florist stock at a
12 retail or wholesale facility from which the items are sold;

13 ~~(4)~~(5) "Qualifying agricultural structure" means the following:

- 14 (A) A poultry or livestock facility used for commercial
15 production, including without limitation a broiler or turkey grow-out house,
16 laying house, hatching unit, nursery unit, breeding house, farrowing unit,
17 and feed-out house;

- 18 (B) A cattle and dairy facility, including without
19 limitation a milking parlor, milk collection unit, and refrigeration unit;
20 and

- 21 (C) A greenhouse used for commercial production;

22 ~~(5)~~(6) "Qualifying aquaculture, ~~or~~ agriculture, or horticulture
23 equipment" means:

- 24 (A) A cooling unit, collection unit, or irrigation
25 equipment used in a commercial:

- 26 (i) Aquaculture operation;
- 27 (ii) Agriculture operation; or
- 28 (iii) ~~horticulture~~ Horticulture operation;

- 29 (B) Equipment used to pump and aerate a pond used in a
30 commercial aquaculture operation; and

- 31 (C) A holding and sorting tank used in a commercial
32 aquaculture operation; and

33 ~~(6)~~(7) "Utility" means the following:

- 34 (A) Electricity;
- 35 (B) Liquefied petroleum gas; and
- 36 (C) Natural gas.

1 (b)(1) ~~Beginning January 1, 2014, the~~ The gross receipts or gross
2 proceeds derived from the sale of a utility used by the following are exempt
3 from the gross receipts tax levied by this chapter, and the compensating use
4 tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.:

5 (A) A qualifying agricultural structure used for a
6 commercial purpose; and

7 (B) Qualifying aquaculture, agriculture, or horticulture
8 equipment operated for a commercial purpose.

9 (2) A utility sold for any purpose other than the purposes
10 stated in subdivision (b)(1) of this section is subject to the full gross
11 receipts tax levied by this chapter, and the full compensating use tax levied
12 by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

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14 SECTION 2. EFFECTIVE DATE. Section 1 of this act is effective on the
15 first day of the second calendar month following the effective date of this
16 act.

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18 /s/Beckham

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21 Referred requested by the Arkansas Senate

22 Prepared by: MBM/KFW
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