

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1717

By: Representative M. Wilson

"AN ACT TO AMEND ACT 1068 OF 1985 TO CLARIFY THE
APPLICABILITY OF THE ARKANSAS GROSS RECEIPTS (SALES) TAX ACT
AND THE COMPENSATING (USE) TAX ACT TO MANUFACTURED CONCRETE
STRUCTURES; AND FOR OTHER PURPOSES."

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

SECTION 1. PURPOSE. The purpose of this Act is to make technical and clarifying amendments to Act 1068 of 1985, to clearly state that it is the intent of the General Assembly that the Gross Receipts (Sales) Tax and the Compensating (Use) Tax are to be imposed only upon the cost of raw materials used in "manufactured" concrete buildings and structures, in the same manner as the Gross Receipts (Sales) Taxes and Compensating (Use) Taxes are imposed only upon the cost of raw materials used in the "on-site" construction of concrete buildings and structures.

SECTION 2. Section 1 of Act 1068 of 1985, the same being Ark. Stat. Ann. 84-1936.1, is hereby amended to read as follows:

DEFINITIONS. (a) Custom Manufactured Home. For the purposes of this Act, the term "custom manufactured home" means a factory-built structure made to be moved to a location away from the factory by a conveyance which is not a part of the structure and which structure is designed to be used as a dwelling unit with a permanent foundation. For the purpose of this definition, the phrase "with a permanent foundation" means the support of the home is constructed so that the custom manufactured home may not be moved without a supporting frame or chassis being added to or placed under the structure. The term "custom manufactured home" does not include a mobile home as defined at Ark. Stat. Ann., 82-3002(g).

(b) Manufactured Concrete Structures. For purposes of this Act, the

term "manufactured concrete structures" means the manufactured components of a permanent building or structure that are designed to be permanently attached to real property and are constructed at a manufacturing location and moved from the manufacturing location by a conveyance which is not part of the structure. For purposes of illustration, but not limitation, such concrete structures shall include components of buildings, parking decks, bridges, etc.

SECTION 3. Section 3 of Act 1068 of 1985, the same being Ark. Stat. Ann. 84-1936.3, is hereby amended to read as follows:

Gross receipts realized from the sale of new custom manufactured homes or manufactured concrete structures constructed from materials on which the Arkansas Gross Receipts (Sales) Tax or the Arkansas Compensating (Use) Tax has once been paid shall be exempt from the Arkansas Gross Receipts (Sales) Tax.

SECTION 4. Section 4 of Act 1068 of 1985, the same being Ark. Stat. Ann. 84-3106.1, is hereby amended to read as follows:

The storage, use or consumption of custom manufactured homes or manufactured concrete structures constructed from materials on which the Arkansas Gross Receipts (Sales) Tax or Arkansas Compensating (Use) Tax has once been paid shall be exempt from the Arkansas Compensating (Use) Tax.

SECTION 5. SEVERABILITY. If any provision to this Act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or applications, and to that extent, the provisions of this Act are declared to be severable.

SECTION 6. REPEALER. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 7. EMERGENCY. It is hereby found and determined by the General Assembly that certain provisions of the State's Gross Receipts (Sales) Tax laws and Compensating (Use) Tax laws may be ambiguous, and therefore subject to different interpretation or administration with regard to similarly situated taxpayers. Therefore, it is immediately necessary to clarify the Arkansas Gross Receipts (Sales) Tax and Compensating (Use) Tax laws so as to

cause the Gross Receipts (Sales) Tax and Compensating (Use) Tax to be applied consistently (1) to those entities that construct concrete structures "on-site" and (2) to those entities that manufacture concrete structures "off-site", when these concrete structures are both designed to be permanently affixed to real estate. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect upon being passed and signed into law, and the provisions of this Act shall control as to the application of the Gross Receipts (Sales) Tax or Compensating (Use) Tax for any prior taxable period for which a dispute between the State and a vendor or consumer is now pending which dispute has not been resolved by final judgment by a Court of this State.

