

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4

As Engrossed: H3/3/97 H3/5/97 S3/19/97

## A Bill

HOUSE BILL 1658

5 By: Representatives Young, Courtway, Sheppard, J. Hudson, Teague, Broadway, Johnson, Simmons, Wren, Molinaro, Allison,  
6 Trammell, McKissack, French, T. Smith, Wilkinson, Wooldridge, Kidd, *McGehee, Angel, Jeffress, Hendren, D. Hudson, and McGee*

### For An Act To Be Entitled

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10 "AN ACT TO PROVIDE FOR GROSS RECEIPTS TAX COMPARABILITY  
11 AMONG ALL TYPES AND FORMS OF HOUSING; *TO DECLARE AN*  
12 *EMERGENCY*; AND FOR OTHER PURPOSES."

### Subtitle

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15 "THE HOUSING SALES TAX COMPARABILITY  
16 ACT."

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

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20 SECTION 1. Arkansas Code § 26-52-504 is amended to read as follows:

21 "§ 26-52-504. Sale of ~~house trailers~~ manufactured homes or mobile homes.

22 (a) Every person selling ~~new or used house trailers~~ manufactured homes  
23 or mobile homes in this state, whether from an established business, under a  
24 licensed dealership, or otherwise, shall obtain and hold a permit as provided  
25 by § 26-52-202 and shall make a monthly report and, if applicable, remittance  
26 to the Director of the Department of Finance and Administration as provided in  
27 the Arkansas Gross Receipts Act, § 26-52-101 et seq., together with copies of  
28 invoices, sales, tickets, or bills of sale reflecting the date of all sales of  
29 such ~~house trailers~~ manufactured homes or mobile homes, the purchaser's name  
30 and address, the make, year, model, serial number, and gross sales price of  
31 each ~~house trailer~~ manufactured home or mobile home, and, if applicable, the  
32 amount of tax collected from the purchaser.

33 (b) ~~When a used house trailer or mobile home is take in trade as a~~  
34 ~~credit or part payment on the sale of a new or used house trailer or mobile~~  
35 ~~home, Upon the initial sale of a manufactured home as defined in § 20-25-~~  
36 102(8), the tax levied by § 26-52-101 et seq., and all other gross receipts

1 taxes levied by the state shall be paid on sixty-two percent (62%) of the net  
2 ~~difference between the total consideration for the house trailer or mobile~~  
3 ~~home sold and the credit for the used trailer or mobile home taken in trade~~  
4 gross sales price of the new manufactured home. As used in this subchapter,  
5 gross sales price shall mean the total purchase price of the new manufactured  
6 home, including any accessories, furnishings, appliances, transportation and  
7 delivery fees, installation fees and other items or services that are included  
8 as part of the sale of the manufactured home, before the consideration of any  
9 trade-in allowance or downpayment, in cash or otherwise.

10 ~~(1) If the mobile home or house trailer is a "manufactured home"~~  
11 ~~as defined by § 20-25-102(8) and the total consideration for the sale of the~~  
12 ~~mobile home or house trailer is less than ten thousand dollars (\$10,000), then~~  
13 ~~no tax shall be due.~~

14 ~~(2) If the mobile home or house trailer does not meet the~~  
15 ~~definition of a "manufactured home" in § 20-25-102(8) and the total~~  
16 ~~consideration for the sale of the mobile home or house trailer is less than~~  
17 ~~two thousand dollars (\$2,000), the no tax shall be due.~~

18 (c) No tax shall be due on the sale of mobile homes or on subsequent  
19 sales of manufactured homes as defined in § 20-25-102(8), including any tax  
20 levied by § 26-52-101 et seq. or any other gross receipts tax levied by the  
21 state. As used in this subchapter, mobile home shall mean a structure built  
22 in a factory prior to the enactment of the Federal Manufactured Home  
23 Construction and Safety Standards (42 U.S.C. 5401 et seq.) and designed to be  
24 used as a residential dwelling, with or without a permanent foundation.

25 (ed) Any permittee who fraudulently attempts to evade any provision of  
26 this section or of the Arkansas Gross Receipts Act, § 26-52-101 et seq., shall  
27 be subject to having his permit revoked after notice and hearing as provided  
28 by § 26-52-208, as amended.

29 (de) (1) Any manufactured home dealer licensed pursuant to  
30 § 27-14-601(a)(6) who ~~has~~ makes a subsequent purchased of a used manufactured  
31 home for which the seller does not have a certificate of title may, upon  
32 payment of all applicable registration and title fees, register the ~~used~~  
33 manufactured home for the sole purpose of obtaining a certificate of title.  
34 ~~without payment of gross receipts taxes.~~

35 (2) No license plate or decal shall be provided with such  
36 registration, ~~and any used manufactured home titled by a dealer under this~~

1 ~~subsection may not be transported on the public highways unless there is~~  
2 ~~displayed thereon a dealers license plate issued under the provisions of~~  
3 ~~§ 27-14-601(a)(6)(B)(ii)."~~

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5       SECTION 2. (a) If a purchaser of a manufactured home or mobile home  
6 establishes to the Directors satisfaction that he was the owner of a house,  
7 manufactured home or mobile home which was destroyed or damaged by the storms  
8 which struck Arkansas on March 1, 1997 and that he purchased a replacement  
9 mobile or manufactured home on or before December 1, 1997, then the purchaser  
10 is entitled to a refund of sales tax as detailed in subsection (b).

11       (b)(1) A purchaser of a new home is entitled to a refund of 38% of the  
12 state sales or use tax paid on the purchase of the new home.

13       (2) A purchaser of a used home is entitled to a refund of 100% of  
14 the state sales or use tax paid on the purchase of the used home.

15       (3) The purchaser shall apply to the Director for a refund  
16 regardless of whether the tax was paid directly to the Director or collected  
17 by the home seller. The application for refund must be made within six (6)  
18 months of the purchase of the replacement home. No interest shall be paid on  
19 tax refunded under this section.

20       (c)(1) For purposes of this section, a mobile or manufactured home is  
21 destroyed or damaged if as a result of the storm the retail value of the home  
22 was reduced by at least fifty percent (50%) as established by a reliable  
23 published industry source.

24       (2) For purposes of this section, a house is destroyed or  
25 damaged if as a result of the storm the market value of the home was reduced  
26 by at least fifty percent (50%) as established by reliable means.

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28       SECTION 3. All provisions of this act of a general and permanent nature  
29 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
30 Revision Commission shall incorporate the same in the Code.

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32       SECTION 4. If any provision of this act or the application thereof to  
33 any person or circumstance is held invalid, such invalidity shall not affect  
34 other provisions or applications of the act which can be given effect without  
35 the invalid provision or application, and to this end the provisions of this  
36 act are declared to be severable.

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SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 6. Emergency. It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the sales tax laws regarding manufactured homes are confused and need clarification to prevent inequities and possible lawsuits over their misapplication; that the laws restrict somewhat the capacity of persons to know what is taxed and when; and that it is immediately necessary for the sales tax laws regarding manufactured homes to become more comparable with laws on all types and forms of housing. Therefore, in order to make the laws more compatible, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on and after July 1, 1997.

/s/Rep. Young, et al