

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H2/27/07

A Bill

HOUSE BILL 1417

5 By: Representatives Sullivan, T. Baker, Berry, E. Brown, Cooper, L. Cowling, Davenport, Dickinson,
6 George, R. Green, Hall, House, King, Lamoureux, Maloch, M. Martin, Maxwell, Medley, Norton,
7 Overbey, Patterson, Pierce, Ragland, Rogers, Stewart, Sumpter, Walters, Webb, Wells, Woods
8
9

For An Act To Be Entitled

11 AN ACT TO REDUCE THE SALES AND USE TAX ON
12 UTILITIES THAT ARE USED BY QUALIFYING
13 AGRICULTURAL STRUCTURES AND QUALIFYING
14 AGRICULTURE, HORTICULTURE, AND AQUACULTURE
15 EQUIPMENT; AND FOR OTHER PURPOSES.
16

Subtitle

17 TO REDUCE THE SALES AND USE TAX ON
18 UTILITIES THAT ARE USED BY QUALIFYING
19 AGRICULTURAL STRUCTURES AND QUALIFYING
20 AGRICULTURE, HORTICULTURE, AND
21 AQUACULTURE EQUIPMENT.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 *SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended*
28 *to add an additional section to read as follows:*

29 *26-52-319. Reduced sales tax rate for utilities used by qualifying*
30 *agricultural structures and by qualifying agriculture, horticulture, and*
31 *aquaculture equipment.*

32 *(a) As used in this section:*

33 *(1) "Qualifying agriculture, horticulture, or aquaculture*
34 *equipment" means:*

35 *(A) A cooling unit, a collection unit, or irrigation*
36 *equipment used in a commercial horticulture operation;*



1 (B) Equipment used to pump and aerate a pond used in a
2 commercial aquaculture operation;

3 (C) A holding and sorting tank used in a commercial
4 aquaculture operation; and

5 (D) An on-farm grain dryer and agricultural irrigation
6 used for a commercial purpose;

7 (2) "Qualifying agricultural structure" means:

8 (A) Confinement housing for poultry or livestock used for
9 commercial production, including without limitation, a broiler or turkey
10 grow-out house, laying house, hatching unit, nursery unit, breeding house,
11 farrowing unit, and feed-out house; and

12 (B) A commercial milking facility, including without
13 limitation, a milking parlor, a milk collection unit, and a refrigeration
14 unit; and

15 (3) "Utility" means:

16 (A) Liquefied-petroleum gas;

17 (B) Natural gas; or

18 (C) Electricity.

19 (b)(1) Beginning July 1, 2007, in lieu of the gross receipts or gross
20 proceeds tax levied in §§ 26-52-301 and 26-52-302(a), (b), (c), and (d),
21 there is levied an excise tax on the gross receipts or gross proceeds derived
22 from the sale of a utility used by a qualifying agricultural structure for a
23 commercial purpose or a qualifying agriculture, horticulture, or aquaculture
24 equipment for a commercial purpose at the rate of four and seven-eighths
25 percent (4.875%).

26 (2) Beginning July 1, 2008, and ending on June 30, 2009, the
27 excise tax rate levied in subdivision (b)(1) of this section shall be imposed
28 at the rate of three and seven-eighths percent (3.875%).

29 (3) Beginning July 1, 2009, the excise tax rate levied in
30 subdivision (b)(1) of this section shall be imposed at the rate of two and
31 seven-eighths percent (2.875%).

32 (4) The excise tax levied in this subsection (b) shall be
33 distributed as follows:

34 (A) Seventy-six and six-tenths percent (76.6%) of the tax,
35 interest, penalties, and costs received by the Director of the Department of
36 Finance and Administration shall be deposited as general revenues;

1 (B) Eight and one-half percent (8.5%) of the tax,
2 interest, penalties, and costs received by the director shall be deposited
3 into the Property Tax Relief Trust Fund; and

4 (C) Fourteen and nine-tenths percent (14.9%) of the tax,
5 interest, penalties, and costs received by the director shall be deposited
6 into the Educational Adequacy Fund.

7 (5)(A) The excise tax levied in this section shall apply only to
8 a utility sold for use by a qualifying agricultural structure operated for
9 commercial purposes or a qualifying agriculture, horticulture, or aquaculture
10 equipment operated for commercial purposes.

11 (B) A utility sold for any other purpose shall be subject
12 to the full gross receipts or gross proceeds tax levied under §§ 26-52-301
13 and 26-52-302(a), (b), (c), and (d).

14 (6) The excise tax levied in this section shall be collected,
15 reported, and paid in the same manner and at the same time as is prescribed
16 by law for the collection, reporting, and payment of all other Arkansas gross
17 receipts taxes.

18 (c) A utility subject to the reduced excise tax rate levied in this
19 section shall be separately metered from a utility used for any other purpose
20 by the taxpayer, or as otherwise established by the rules issued under
21 subsection (e) of this section.

22 (d) Before the purchase of a utility at the reduced excise tax rate
23 levied in this section, the director may require any seller of a utility to
24 obtain a certificate from the taxpayer, in the form prescribed by the
25 director, certifying that the taxpayer is eligible to purchase the utility at
26 the reduced excise tax rate.

27 (e) The director shall promulgate rules for the proper administration
28 of this section.

29 (f) The gross receipts or gross proceeds derived from the sale of a
30 utility to a taxpayer for use by a qualifying agricultural structure or
31 qualifying agriculture, horticulture, or aquaculture equipment shall continue
32 to be subject to:

33 (1) The excise tax levied under the Arkansas Constitution,
34 Amendment 75, § 2; and

35 (2) All municipal and county gross receipts taxes.

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1 SECTION 2. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended
2 to add an additional section to read as follows:

3 26-53-148. Reduced sales tax rate for utilities used by qualifying
4 agricultural structures and by qualifying agriculture, horticulture, and
5 aquaculture equipment.

6 (a) As used in this section:

7 (1) "Qualifying agriculture, horticulture, or aquaculture
8 equipment" means:

9 (A) A cooling unit, a collection unit, or irrigation
10 equipment used in a commercial horticulture operation;

11 (B) Equipment used to pump and aerate a pond used in a
12 commercial aquaculture operation;

13 (C) A holding and sorting tank used in a commercial
14 aquaculture operation; and

15 (D) An on-farm grain dryer and agricultural irrigation
16 used for a commercial purpose;

17 (2) "Qualifying agricultural structure" means:

18 (A) Confinement housing for poultry or livestock used for
19 commercial production, including without limitation, a broiler or turkey
20 grow-out house, laying house, hatching unit, nursery unit, breeding house,
21 farrowing unit, and feed-out house; and

22 (B) A commercial milking facility, including without
23 limitation, a milking parlor, a milk collection unit, and a refrigeration
24 unit; and

25 (3) "Utility" means:

26 (A) Liquefied-petroleum gas;

27 (B) Natural gas; or

28 (C) Electricity.

29 (b)(1) Beginning July 1, 2007, in lieu of the compensating use tax
30 levied in §§ 26-53-106 and 26-53-107(a), (b), (c), and (d), there is levied
31 an excise tax on the sales price of a utility purchased for use by a
32 qualifying agricultural structure or by qualifying agriculture, horticulture,
33 or aquaculture equipment at the rate of four and seven-eighths percent
34 (4.875%).

35 (2) Beginning July 1, 2008 and ending on June 30, 2009, the
36 excise tax rate levied in subdivision (b)(1) of this section shall be imposed

1 at the rate of three and seven-eighths percent (3.875%).

2 (3) Beginning July 1, 2009, the excise tax rate levied in
3 subdivision (b)(1) of this section shall be imposed at the rate of two and
4 seven-eighths percent (2.875%).

5 (4) The excise taxes levied in this subsection (b) shall be
6 distributed as follows:

7 (A) Seventy-six and six-tenths percent (76.6%) of the tax,
8 interest, penalties, and costs received by the Director of the Department of
9 Finance and Administration shall be deposited as general revenues;

10 (B) Eight and one-half percent (8.5%) of the tax,
11 interest, penalties, and costs received by the director shall be deposited
12 into the Property Tax Relief Trust Fund; and

13 (C) Fourteen and nine-tenths percent (14.9%) of the tax,
14 interest, penalties, and costs received by the director shall be deposited
15 into the Educational Adequacy Fund.

16 (5)(A) The excise tax levied in this section shall apply only to
17 a utility purchased for use by a qualifying agricultural structure operated
18 for commercial purposes or a qualifying agriculture, horticulture, or
19 aquaculture equipment operated for commercial purposes.

20 (B) A utility purchased for any other purpose shall be
21 subject to the full compensating use tax levied under §§ 26-53-106 and 26-53-
22 107(a), (b), (c), and (d).

23 (6) The excise tax levied in this section shall be collected,
24 reported, and paid in the same manner and at the same time as is prescribed
25 by law for the collection, reporting, and payment of all other Arkansas
26 compensating use taxes.

27 (c) A utility subject to the reduced excise tax rate levied in this
28 section shall be separately metered from a utility used for any other purpose
29 by the taxpayer, or as otherwise established by the rules issued under
30 subsection (e) of this section.

31 (d) Prior to the purchase of a utility at the reduced excise tax rate
32 levied in this section, the director may require any seller of a utility to
33 obtain a certificate from the consumer, in the form prescribed by the
34 director, certifying that the taxpayer is eligible to purchase the utility at
35 the reduced excise tax rate.

36 (e) The director shall promulgate rules for the proper administration

1 of this section.

2 (f) The purchase of a utility that qualifies for the reduced excise
3 tax rate levied in this section shall continue to be subject to:

4 (1) The excise tax levied under the Arkansas Constitution,
5 Amendment 75, § 2; and

6 (2) All municipal and county compensating use taxes.

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8 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
9 General Assembly of the State of Arkansas that agricultural, horticultural,
10 and aquacultural businesses in this state have suffered losses due to sharp
11 increases in energy costs; that these businesses are unable to set the price
12 for the products they produce and are particularly vulnerable to price
13 volatility; that the current sales and use tax on utilities consumed by these
14 businesses located within this state creates a competitive disadvantage; that
15 this act is intended to address that problem by providing a reduced tax rate
16 on utilities consumed by agricultural, horticultural, and aquacultural
17 businesses located in this state; and that this act is necessary to prevent
18 the loss of agricultural, horticultural, and aquacultural jobs. Therefore,
19 an emergency is hereby declared to exist and this act being necessary for the
20 preservation of public peace, health, and safety shall become effective on
21 July 1, 2007.

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23 /s/ Sullivan, et al
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