

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

HOUSE BILL 1039

5 By: Representatives Wardlaw, Wren, Ballinger, Biviano, Branscum, Catlett, Deffenbaugh, D. Douglas,
6 Eubanks, Gillam, Gossage, Hawthorne, Hillman, Lampkin, Mayberry, McCrary, B. Overbey, Perry,
7 Ratliff, Rice, Scott, Slinkard, Talley, T. Thompson, Vines, Westerman, Wright
8 By: Senators G. Stubblefield, B. King, E. Cheatham, Hester, Holland, U. Lindsey, Maloch, B. Pierce, J.
9 Woods, D. Wyatt

For An Act To Be Entitled

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12 AN ACT TO CREATE AN EXEMPTION FROM THE SALES AND USE
13 TAX FOR UTILITIES USED BY QUALIFYING AGRICULTURAL
14 STRUCTURES AND QUALIFYING AQUACULTURE AND
15 HORTICULTURE EQUIPMENT; AND FOR OTHER PURPOSES.
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Subtitle

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19 TO CREATE AN EXEMPTION FROM THE SALES AND
20 USE TAX FOR UTILITIES USED BY QUALIFYING
21 AGRICULTURAL STRUCTURES AND QUALIFYING
22 AQUACULTURE AND HORTICULTURE 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 4 is amended
28 to add an additional section to read as follows:

29 26-52-446. Qualifying agricultural structures and qualifying
30 aquaculture and horticulture equipment.

31 (a) As used in this section:

32 (1) "Qualifying agricultural structure" means the following:

33 (A) A poultry or livestock facility used for commercial
34 production, including without limitation a broiler or turkey grow-out house,
35 laying house, hatching unit, nursery unit, breeding house, farrowing unit,
36 and feed-out house; and



1 (B) A cattle and dairy facility, including without
2 limitation a milking parlor, milk collection unit, and refrigeration unit;

3 (2) "Qualifying aquaculture or horticulture equipment" means:

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

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

8 (C) A holding and sorting tank used in a commercial
9 aquaculture operation;

10 (3) "Utility" means the following:

11 (A) Electricity;

12 (B) Liquefied petroleum gas; and

13 (C) Natural gas.

14 (b)(1) The gross receipts or gross proceeds derived from the sale of a
15 utility used by the following are exempt from the gross receipts tax levied
16 by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the
17 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §
18 26-53-101 et seq.:

19 (A) A qualifying agricultural structure for a commercial
20 purpose; and

21 (B) Qualifying aquaculture or horticulture equipment
22 operated for a commercial purpose.

23 (2) A utility sold for any purpose other than the purposes
24 stated in subdivision (b)(1) of this section is subject to the full gross
25 receipts tax levied by the Arkansas Gross Receipts Act of 1941, § 26-52-101
26 et seq., and the full compensating use tax levied by the Arkansas
27 Compensating Tax Act of 1949, § 26-53-101 et seq.

28 (c)(1) A utility subject to the exemption provided under this section
29 shall be separately metered from a utility used for any other purpose by the
30 taxpayer.

31 (2) However, the rules promulgated under subsection (e) of this
32 section may establish additional or alternate requirements for the metering
33 of utilities under this section.

34 (d) Before allowing the exemption of a utility under this section, the
35 Director of the Department of Finance and Administration may require a seller
36 of a utility to obtain a certificate from the taxpayer, in the form

1 prescribed by the director, certifying that the taxpayer is eligible for the
2 exemption.

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

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6 SECTION 2. EFFECTIVE DATE. Section 1 of this act is effective on the
7 first day of the calendar quarter following the effective date of this act.

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