

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

As Engrossed: H1/31/13

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, *Alexander, D. Altes, C.*
8 *Armstrong, E. Armstrong, Baine, Baltz, Barnett, Bragg, Broadaway, Carnine, Copenhaver, Cozart, J.*
9 *Dickinson, Ferguson, Fite, Hammer, Harris, Hickerson, Hodges, Holcomb, Jean, Kizzia, Lea, Leding,*
10 *Lowery, Magie, McElroy, McGill, Murdock, Richey, Steel, W. Wagner, D. Whitaker, Williams, Word*
11 By: Senators G. Stubblefield, B. King, E. Cheatham, Hester, Holland, U. Lindsey, Maloch, B. Pierce, J.
12 Woods, D. Wyatt, *J. Dismang, J. Hutchinson, Irvin, J. Key, Rapert, E. Williams*
13

For An Act To Be Entitled

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

21 TO CREATE AN EXEMPTION FROM THE SALES AND
22 USE TAX FOR UTILITIES USED BY QUALIFYING
23 AGRICULTURAL STRUCTURES AND QUALIFYING
24 AQUACULTURE AND HORTICULTURE EQUIPMENT.
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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30 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4 is amended
31 to add an additional section to read as follows:

32 26-52-446. Utilities used for qualifying agricultural structures and
33 qualifying aquaculture and horticulture equipment.

34 (a) As used in this section:

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

36 (A) A poultry or livestock facility used for commercial



1 production, including without limitation a broiler or turkey grow-out house,
2 laying house, hatching unit, nursery unit, breeding house, farrowing unit,
3 and feed-out house;

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

7 (C) A greenhouse used for commercial production;

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

9 (A) A cooling unit, 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; and

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

15 (3) "Utility" means the following:

16 (A) Electricity;

17 (B) Liquefied petroleum gas; and

18 (C) Natural gas.

19 (b)(1)(A) Beginning January 1, 2014, the gross receipts or gross
20 proceeds derived from the sale of electricity used by the following are
21 exempt from the gross receipts tax levied by the Arkansas Gross Receipts Act
22 of 1941, § 26-52-101 et seq., and the compensating use tax levied by the
23 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.:

24 (i) A qualifying agricultural structure used for a
25 commercial purpose; and

26 (ii) Qualifying aquaculture or horticulture
27 equipment operated for a commercial purpose.

28 (B) Beginning January 1, 2016, the gross receipts or gross
29 proceeds derived from the sale of liquefied petroleum gas or natural gas used
30 by the following are exempt from the gross receipts tax levied by the
31 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the
32 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §
33 26-53-101 et seq.:

34 (i) A qualifying agricultural structure used for a
35 commercial purpose; and

36 (ii) Qualifying aquaculture or horticulture

1 equipment operated for a commercial purpose.

2 (2) A utility sold for any purpose other than the purposes
3 stated in subdivision (b)(1) or subdivision (b)(2) of this section is subject
4 to the full gross receipts tax levied by the Arkansas Gross Receipts Act of
5 1941, § 26-52-101 et seq., and the full compensating use tax levied by the
6 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

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

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

13 (d) Before allowing the exemption of a utility under this section, the
14 Director of the Department of Finance and Administration may require a seller
15 of a utility to obtain a certificate from the taxpayer, in the form
16 prescribed by the director, certifying that the taxpayer is eligible for the
17 exemption.

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

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22 /s/Wardlaw
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