

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H1/31/13 H2/14/13*

2 89th General Assembly

# A Bill

3 Regular Session, 2013

HOUSE BILL 1039

4

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, Copenhagen, 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 *Hopper, Jett, Bell*

12 By: Senators *Teague, G. Stubblefield, B. King, E. Cheatham, Hester, Holland, U. Lindsey, Maloch, B.*  
13 *Pierce, J. Woods, D. Wyatt, J. Dismang, J. Hutchinson, Irvin, J. Key, Rapert, E. Williams, B. Sample*

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## For An Act To Be Entitled

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

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## Subtitle

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

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31 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4 is amended  
32 to add an additional section to read as follows:

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

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(1) "Aquaculture" means the active cultivation of domesticated  
fish;



1 (2) "Domesticated fish" means fish that are spawned, grown,  
2 managed, harvested, and marketed on an annual, semiannual, biennial, or  
3 short-term basis in waters that are confined within a pond, tank, or lake  
4 that is situated entirely on the premises of a single owner and that, except  
5 under abnormal flood conditions, are in no way connected by water or with any  
6 other:

7 (A) Flowing stream or body of water; or

8 (B) Body of water not situated on the premises of the  
9 owner;

10 (3)(A) "Horticulture" means the initial production and  
11 cultivation of fruits, vegetables, tree nuts, trees, shrubs, vines, and  
12 florist stock.

13 (B) "Horticulture" does not include the cultivation of  
14 fruits, vegetables, tree nuts, trees, shrubs, vines, and florist stock at a  
15 retail or wholesale facility from which the items are sold;

16 (4) "Qualifying agricultural structure" means the following:

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

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

24 (C) A greenhouse used for commercial production;

25 (5) "Qualifying aquaculture or horticulture equipment" means:

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

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

30 (C) A holding and sorting tank used in a commercial  
31 aquaculture operation;

32 (6) "Utility" means the following:

33 (A) Electricity;

34 (B) Liquefied petroleum gas; and

35 (C) Natural gas.

36 (b)(1)(A) Beginning January 1, 2014, the gross receipts or gross

1 proceeds derived from the sale of electricity used by the following are  
2 exempt from the gross receipts tax levied by the Arkansas Gross Receipts Act  
3 of 1941, § 26-52-101 et seq., and the compensating use tax levied by the  
4 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.:

5 (i) A qualifying agricultural structure used for a  
6 commercial purpose; and

7 (ii) Qualifying aquaculture or horticulture  
8 equipment operated for a commercial purpose.

9 (B) Beginning January 1, 2016, the gross receipts or gross  
10 proceeds derived from the sale of liquefied petroleum gas or natural gas used  
11 by the following are exempt from the gross receipts tax levied by the  
12 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the  
13 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §  
14 26-53-101 et seq.:

15 (i) A qualifying agricultural structure used for a  
16 commercial purpose; and

17 (ii) Qualifying aquaculture or horticulture  
18 equipment operated for a commercial purpose.

19 (2) A utility sold for any purpose other than the purposes  
20 stated in subdivision (b)(1) or subdivision (b)(2) of this section is subject  
21 to the full gross receipts tax levied by the Arkansas Gross Receipts Act of  
22 1941, § 26-52-101 et seq., and the full compensating use tax levied by the  
23 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

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

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

30 (d) Before allowing the exemption of a utility under this section, the  
31 Director of the Department of Finance and Administration may require a seller  
32 of a utility to obtain a certificate from the taxpayer, in the form  
33 prescribed by the director, certifying that the taxpayer is eligible for the  
34 exemption.

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

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*/s/Wardlaw*