

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*

14

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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(a) As used in this section:

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



1 fish;

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

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

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

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

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

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

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

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

25 (C) A greenhouse used for commercial production;

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

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

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

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

33 (6) "Utility" means the following:

34 (A) Electricity;

35 (B) Liquefied petroleum gas; and

36 (C) Natural gas.

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

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

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

10 (B) Beginning January 1, 2016, the gross receipts or gross
11 proceeds derived from the sale of liquefied petroleum gas or natural gas used
12 by the following are exempt from the gross receipts tax levied by the
13 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the
14 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §
15 26-53-101 et seq.:

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

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

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

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

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

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

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

1 of this section.

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/s/Wardlaw

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