

1 State of Arkansas
2 89th General Assembly
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4

As Engrossed: H3/7/13 H3/14/13

A Bill

HOUSE BILL 1266

5 By: Representatives Dale, Catlett, Eubanks
6 By: Senator G. Stubblefield
7

For An Act To Be Entitled

9 AN ACT TO CREATE A SALES AND USE TAX EXEMPTION FOR
10 CONSTRUCTION MATERIALS PURCHASED TO CONSTRUCT,
11 REPAIR, OR REMODEL A FACILITY TO BE USED BY AN EXEMPT
12 ENTITY; AND FOR OTHER PURPOSES.
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Subtitle

15 TO CREATE A SALES AND USE TAX EXEMPTION
16 FOR CONSTRUCTION MATERIALS PURCHASED TO
17 CONSTRUCT, REPAIR, OR REMODEL A FACILITY
18 TO BE USED BY AN EXEMPT ENTITY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 *SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4, is*
25 *amended to add an additional section to read as follows:*

26 26-52-446. Construction materials.

27 (a) As used in this section:

28 (1) "Construction materials" means materials, supplies, and
29 other tangible personal property purchased and consumed by:

30 (A) An exempt entity to construct, repair, or remodel a
31 facility to be used by the exempt entity in the conduct of the exempt
32 entity's regular functions and activities; or

33 (B) A contractor to directly fulfill a contract with an
34 exempt entity to construct, repair, or remodel a facility to be used by the
35 exempt entity in the conduct of the exempt entity's regular functions and
36 activities; and



1 (2) "Exempt entity" means a regional water distribution district
2 created under the Regional Water Distribution District Act, § 14-116-101 et
3 seq.

4 (b) The gross receipts or gross proceeds derived from the sale of
5 construction materials are exempt from the gross receipts tax levied by the
6 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the
7 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §
8 26-53-101 et seq.

9 (c) An exempt entity shall:

10 (1) Register each project that is eligible for an exemption
11 under this section with the Department of Finance and Administration;

12 (2) Obtain an exemption certificate from the department for the
13 project; and

14 (3) Provide a copy of the exemption certificate obtained from
15 the department to:

16 (A) Each contractor, which shall provide a copy of the
17 exemption certificate to each supplier of construction materials purchased
18 for the project; and

19 (B) A supplier if the exempt entity purchases construction
20 materials for a project directly from a supplier.

21 (d)(1) A supplier shall provide to a contractor purchasing
22 construction materials under this section an invoice bearing the name of the
23 exempt entity and the project identification number.

24 (2) The contractor shall maintain invoices provided under this
25 subsection for at least five (5) years.

26 (e)(1) Any excess resalable materials, supplies, or other tangible
27 personal property that are purchased for a project by a contractor under an
28 exemption certificate but are not incorporated into or consumed in the
29 construction of the project shall be returned to the supplier for credit.

30 (2) If the contractor is not able to return the excess resalable
31 materials, supplies, or other tangible personal property to the supplier for
32 credit, the appropriate sales and use tax on the excess resalable materials,
33 supplies, and other tangible personal property shall be reported on a return
34 and paid by the contractor no later than the due date of the contractor's
35 state sales and use tax return following the month in which it was determined
36 that the excess resalable materials, supplies, or tangible personal property

1 were not used in the project.

2 (f) The exempt entity may monitor all construction materials
3 purchased, used, and consumed in fulfilling the construction project.

4 (g) This section does not exempt from sales and use tax the purchase
5 of machinery, equipment, or tools used in fulfilling construction contracts.

6 (h)(1) If an entity obtains an exemption certificate for the purchase
7 of materials, supplies, or other tangible personal property that are
8 incorporated into or consumed in the entity's construction project and the
9 entity is found not to be an exempt entity eligible for an exemption
10 certificate under this section, the entity is liable for the sales and use
11 tax owed on the materials, supplies, and other tangible personal property.

12 (2) If an exempt entity obtains an exemption certificate for the
13 purchase of materials, supplies, and other tangible personal property that
14 are incorporated into or consumed in the construction of a project or part of
15 a project that is found not to be related to the exempt entity's functions
16 and activities, the exempt entity is liable for the sales and use tax owed on
17 the materials, supplies, and other tangible personal property.

18 (i) The Director of the Department of Finance and Administration may
19 promulgate rules to implement this section.

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21 SECTION 2. EFFECTIVE DATE. Section 1 of this act is effective on the
22 first day of the second calendar month following the effective date of this
23 act.

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26 /s/Dale
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