WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

ENROLLED

House Bill No. 4686
(By Delegates Michael, Kelley, Warner, Pettit, Doyle, Miller and Fawcett)

Passed March 14, 1998
In Effect Ninety Days from Passage
AN ACT to amend article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seven-a; and to amend article fifteen-a of said chapter by adding thereto a new section, designated section two-b, all relating to consumers sales and service and use tax on sales and installation of modular dwellings.

Be it enacted by the Legislature of West Virginia:

That article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section seven-a; and that article fifteen-a of said chapter be amended by adding thereto a new section, designated section two-b, all to read as follows:

ARTICLE 15. CONSUMERS SALES TAX.

§11-15-7a. Tax on the manufacture, sale and installation of modular dwellings.

(a) Notwithstanding the provisions of section seven of this article, persons engaged in the manufacture and sale or the manufacture, sale and installation of a modular dwelling shall pay the tax imposed by this article only on the value of the building supplies and materials used in the manufacture and installation of the modular dwelling and
the preparation of the site for permanent installation, and not on the labor involved in such activities. For purposes of this section, the value of the building supplies and materials shall be the actual cost of the building supplies and materials. If the manufacturer asserts an exemption at the time of purchase of the building supplies and materials, the manufacturer shall remit the tax due on the value of the building supplies and materials used in the manufacture of the modular dwelling at the time of sale of the modular dwelling. If the manufacturer pays the tax at the time of purchase of the building supplies and materials, the manufacturer is responsible for maintaining records evidencing payment of the tax. Failure to maintain such records will result in the tax being assessed to the manufacturer.

(b) Persons engaged in the sale and installation of a modular dwelling shall pay the tax imposed by this article on only the value of the materials used in the manufacture and installation of the modular dwelling and the preparation of the site for permanent installation, and not on the labor involved in such activities. For purposes of this section, the value of the materials used in the manufacture of the modular dwelling shall be the actual cost of the materials and building supplies to the manufacturer as delineated on the invoice to the purchaser. If the actual cost of the materials is not available, then the cost of the materials used in the manufacture of the modular dwelling shall be sixty percent of the total cost of the modular dwelling. A credit will be given to the purchaser for any sales or use tax that has been lawfully imposed by another state and paid by the manufacturer on the purchase of building supplies and materials used in the manufacture of the modular dwelling. If the manufacturer pays the tax at the time of purchase of the building supplies and materials, the manufacturer is responsible for maintaining records evidencing payment of the tax and delineating this amount on the invoice. Failure to maintain such records will result in the credit being denied.

(c) Definition of modular dwelling. — For purposes of this article, a modular dwelling shall include, but not be
limited to, single and multi-family houses, apartment units and commercial dwellings comprised of two or more sections without a permanent chassis, built to a state or model code other than the National Manufactured Housing Construction and Safety Standards Act of 1974, which are primarily constructed at a location other than the permanent site at which they are to be finally assembled and which are shipped to the site with most permanent components in place.

ARTICLE 15A. USE TAX.

§11-15A-2b. Tax on the manufacture, sale and installation of modular dwellings.

(a) Notwithstanding the provisions of section two-a of this article, persons engaged in the manufacture and sale or the manufacture, sale and installation of a modular dwelling shall pay the tax imposed by this article only on the value of the building supplies and materials used in the manufacture and installation of the modular dwelling and the preparation of the site for permanent installation, and not on the labor involved in such activities. For purposes of this section, the value of the building supplies and materials shall be the actual cost of the building supplies and materials. If the manufacturer asserts an exemption at the time of purchase of the building supplies and materials, the manufacturer shall remit the tax due on the value of the building supplies and materials used in the manufacture of the modular dwelling at the time of sale of the modular dwelling. If the manufacturer pays the tax at the time of purchase of the building supplies and materials, the manufacturer is responsible for maintaining records evidencing payment of the tax. Failure to maintain such records will result in the tax being assessed to the manufacturer.

(b) Persons engaged in the sale and installation of a modular dwelling shall pay the tax imposed by this article on only the value of the materials used in the manufacture and installation of the modular dwelling and the preparation of the site for permanent installation and not on the labor involved in such activities. For purposes of this section, the value of the materials used in the
29 manufacture of the modular dwelling shall be the actual
30 cost of the materials and building supplies to the
31 manufacturer as delineated on the invoice to the
32 purchaser. If the actual cost of the materials is not
33 available, then the cost of the materials used in the
34 manufacture of the modular dwelling shall be sixty
35 percent of the total cost of the modular dwelling. A credit
36 will be given to the purchaser for any sales or use tax that
37 has been lawfully imposed by another state and paid by
38 the manufacturer on the purchase of building supplies
39 and materials used in the manufacture of the modular
40 dwelling. If the manufacturer pays the tax at the time of
41 purchase of the building supplies and materials, the
42 manufacturer is responsible for maintaining records
43 evidencing payment of the tax and delineating the amount
44 on the invoice. Failure to maintain such records will result
45 in the credit being denied.

46 (c) Definition of modular dwelling. — For purposes of
47 this article, a modular dwelling shall include, but not be
48 limited to, single and multi-family houses, apartment units
49 and commercial dwellings comprised of two or more
50 sections without a permanent chassis, built to a state or
51 model code other than the National Manufactured
52 Housing Construction and Safety Standards Act of 1974,
53 which are primarily constructed at a location other than
54 the permanent site at which they are to be finally
55 assembled and which are shipped to the site with most
56 permanent components in place.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 26th day of Affili., 1998.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/31/95
Time 2:55 pm