

RECEIVED

98 APR -8 PM 3:16

OFFICE OF THE CLERK  
LEGISLATIVE SERVICE CENTER  
STATE HOUSE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



# ENROLLED

## House Bill No. 4686

(By Delegates Michael, Kelley, Warner,  
Pettit, Doyle, Miller and Faernyer)



Passed March 14, 1998

In Effect Ninety Days from Passage

RECEIVED  
98 APR -9 PM 3:19  
OFFICE OF THE CLERK  
STATE OF WEST VIRGINIA

**ENROLLED**  
**H. B. 4686**

(BY DELEGATES MICHAEL, KELLEY, WARNER,  
PETTIT, DOYLE, MILLER AND FACEMYER)

---

[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.**

- 1 (a) Notwithstanding the provisions of section seven of
- 2 this article, persons engaged in the manufacture and sale
- 3 or the manufacture, sale and installation of a modular
- 4 dwelling shall pay the tax imposed by this article only on
- 5 the value of the building supplies and materials used in the
- 6 manufacture and installation of the modular dwelling and

7 the preparation of the site for permanent installation, and  
8 not on the labor involved in such activities. For purposes  
9 of this section, the value of the building supplies and  
10 materials shall be the actual cost of the building supplies  
11 and materials. If the manufacturer asserts an exemption at  
12 the time of purchase of the building supplies and  
13 materials, the manufacturer shall remit the tax due on the  
14 value of the building supplies and materials used in the  
15 manufacture of the modular dwelling at the time of sale of  
16 the modular dwelling. If the manufacturer pays the tax at  
17 the time of purchase of the building supplies and  
18 materials, the manufacturer is responsible for maintaining  
19 records evidencing payment of the tax. Failure to  
20 maintain such records will result in the tax being assessed  
21 to the manufacturer.

22 (b) Persons engaged in the sale and installation of a  
23 modular dwelling shall pay the tax imposed by this article  
24 on only the value of the materials used in the manufacture  
25 and installation of the modular dwelling and the  
26 preparation of the site for permanent installation, and not  
27 on the labor involved in such activities. For purposes of  
28 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 and  
39 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 this  
44 amount on the invoice. Failure to maintain such records  
45 will result 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.

**ARTICLE 15A. USE TAX.**

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

1 (a) Notwithstanding the provisions of section two-a of  
2 this article, persons engaged in the manufacture and sale  
3 or the manufacture, sale and installation of a modular  
4 dwelling shall pay the tax imposed by this article only on  
5 the value of the building supplies and materials used in the  
6 manufacture and installation of the modular dwelling and  
7 the preparation of the site for permanent installation, and  
8 not on the labor involved in such activities. For purposes  
9 of this section, the value of the building supplies and  
10 materials shall be the actual cost of the building supplies  
11 and materials. If the manufacturer asserts an exemption at  
12 the time of purchase of the building supplies and  
13 materials, the manufacturer shall remit the tax due on the  
14 value of the building supplies and materials used in the  
15 manufacture of the modular dwelling at the time of sale of  
16 the modular dwelling. If the manufacturer pays the tax at  
17 the time of purchase of the building supplies and  
18 materials, the manufacturer is responsible for maintaining  
19 records evidencing payment of the tax. Failure to  
20 maintain such records will result in the tax being assessed  
21 to the manufacturer.

22 (b) Persons engaged in the sale and installation of a  
23 modular dwelling shall pay the tax imposed by this article  
24 on only the value of the materials used in the manufacture  
25 and installation of the modular dwelling and the  
26 preparation of the site for permanent installation and not  
27 on the labor involved in such activities. For purposes of  
28 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.

*Randy Schooner*  
Chairman Senate Committee

*Mike Fantano*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.  
*Carroll E. Egan*  
Clerk of the Senate

*Suzanne M. Day*  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
President of the Senate

*[Signature]*  
Speaker of the House of Delegates

The within *approved* this the *7th*  
day of *April*, 1998.

*[Signature]*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/98

Time 2:55 pm