

NOTE: The governor signed this measure on 6/10/2016.

An Act

HOUSE BILL 16-1457

BY REPRESENTATIVE(S) Garnett and Wilson, Becker J., Carver, Coram, Esgar, Lawrence, Lundeen, Melton, Mitsch Bush, Moreno, Navarro, Neville P., Nordberg, Pabon, Pettersen, Primavera, Priola, Roupe, Williams, Arndt, Becker K., Conti, Fields, Hamner, Kagan, Kraft-Tharp, Lebsock, Leonard, Lontine, Ryden, Van Winkle, Vigil, Windholz, Young, Hullinghorst, Court, Salazar, Winter;
also SENATOR(S) Neville T. and Garcia, Cooke, Donovan, Grantham, Hodge, Holbert, Kefalas, Kerr, Merrifield, Scott, Sonnenberg, Steadman, Tate, Aguilar, Baumgardner, Carroll, Crowder, Guzman, Heath, Johnston, Jones, Marble, Newell, Woods.

CONCERNING A CLARIFICATION OF THE EXISTING SALES AND USE TAX EXEMPTION FOR RESIDENTIAL ENERGY SOURCES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that the purpose of House Bill 16-1457, enacted in 2016, is to codify the current department of revenue rule regarding the existing sales and use tax exemption for the sale, storage, use, or consumption, for residential use, of electricity, coal, wood, gas, fuel oil, or coke.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. In Colorado Revised Statutes, 39-26-715, **amend** (1) (a) (II) and (2) (c) as follows:

39-26-715. Fuel and oil - definitions. (1) (a) The following are exempt from taxation under the provisions of part 1 of this article:

(II) ~~Effective July 1, 1980~~ ON AND AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (II), AS AMENDED, all sales and purchases of electricity, coal, wood, gas, fuel oil, or coke sold ~~but not for resale, to occupants of residences, whether owned, leased, or rented by said occupants, for the purpose of operating residential fixtures and appliances that provide light, heat, and power for such residences~~ FOR RESIDENTIAL USE. RESIDENTIAL USE IS PRESUMED WHEN A UTILITY COMPANY CHARGES A RESIDENTIAL UTILITY RATE AND SUCH UTILITY COMPANY MAY CONCLUSIVELY RELY ON SUCH PRESUMPTION. For purposes of this subparagraph (II):

(A) "Gas" includes natural, manufactured, and liquefied petroleum gas.

(B) "RESIDENCE" MEANS A SEPARATE DWELLING IN A MULTI-UNIT APARTMENT, CONDOMINIUM, TOWNHOUSE, OR MOBILE TRAILER HOME PARK, OR A SEPARATE SINGLE-UNIT DWELLING, THAT IS EITHER BILLED UNDER A SINGLE UTILITY METER OR A MASTER UTILITY METER AND EITHER CHARGED AT A RESIDENTIAL, COMMERCIAL, OR OTHER NONRESIDENTIAL UTILITY RATE. "RESIDENCE" INCLUDES MINOR BUILDINGS ASSOCIATED WITH THE RESIDENCE THAT ARE BILLED UNDER THE RESIDENTIAL UTILITY METER, SUCH AS A SHED, GARAGE, OR BARN.

(C) "RESIDENTIAL USE" MEANS THE USE OF ELECTRICITY, COAL, WOOD, GAS, FUEL OIL, OR COKE FOR DOMESTIC PURPOSES, INCLUDING POWERING LIGHTS, REFRIGERATORS, STOVES, WATER HEATERS, SPACE HEATERS, AIR CONDITIONERS, OR OTHER DOMESTIC ITEMS THAT REQUIRE POWER OR FUEL IN A RESIDENCE.

(2) The following are exempt from taxation under the provisions of part 2 of this article:

(c) ~~Effective July 1, 1980~~ ON AND AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (c), AS AMENDED, the storage, use, or consumption of

electricity, coal, wood, gas, fuel oil, or coke sold ~~but not for resale, to any occupant of a residence, whether owned, leased, or rented by the occupant, for the purpose of operating fixtures or appliances that provide light, heat, or power for the residence~~ FOR RESIDENTIAL USE. RESIDENTIAL USE IS PRESUMED WHEN A UTILITY COMPANY CHARGES A RESIDENTIAL UTILITY RATE AND SUCH UTILITY COMPANY MAY CONCLUSIVELY RELY ON SUCH PRESUMPTION. For ~~the~~ purposes of this paragraph (c):

(I) "Gas" includes natural, manufactured, and liquefied petroleum gas.

(II) "RESIDENCE" MEANS A SEPARATE DWELLING IN A MULTI-UNIT APARTMENT, CONDOMINIUM, TOWNHOUSE, OR MOBILE TRAILER HOME PARK, OR A SEPARATE SINGLE-UNIT DWELLING, THAT IS EITHER BILLED UNDER A SINGLE UTILITY METER OR A MASTER UTILITY METER AND EITHER CHARGED AT A RESIDENTIAL, COMMERCIAL, OR OTHER NONRESIDENTIAL UTILITY RATE. "RESIDENCE" INCLUDES MINOR BUILDINGS ASSOCIATED WITH THE RESIDENCE THAT ARE BILLED UNDER THE RESIDENTIAL UTILITY METER, SUCH AS A SHED, GARAGE, OR BARN.

(III) "RESIDENTIAL USE" MEANS THE USE OF ELECTRICITY, COAL, WOOD, GAS, FUEL OIL, OR COKE FOR DOMESTIC PURPOSES, INCLUDING POWERING LIGHTS, REFRIGERATORS, STOVES, WATER HEATERS, SPACE HEATERS, AIR CONDITIONERS, OR OTHER DOMESTIC ITEMS THAT REQUIRE POWER OR FUEL IN A RESIDENCE.

SECTION 3. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO