

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1384

By: Representative Holcomb

For An Act To Be Entitled

AN ACT CONCERNING FEES CHARGED FOR THE RENTAL OF HEAVY EQUIPMENT PROPERTY; TO ALLOW A BUSINESS ENGAGED IN THE BUSINESS OF RENTING HEAVY EQUIPMENT PROPERTY TO COLLECT A RECOVERY FEE FROM CERTAIN CONSUMERS; TO REGULATE THE USE AND DISTRIBUTION OF RECOVERY FEES; AND FOR OTHER PURPOSES.

Subtitle

TO ALLOW A BUSINESS ENGAGED IN THE BUSINESS OF RENTING HEAVY EQUIPMENT PROPERTY TO COLLECT A RECOVERY FEE FROM CERTAIN CONSUMERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 4, Chapter 70, Subchapter 1, is amended to add an additional section to read as follows:

4-70-104. Heavy equipment rental recovery fee.

(a) As used in this section:

(1) "Heavy equipment property" means personal property owned by a business classified within sectors 532310 or 532412 of the North American Industry Classification System, as in effect on January 1, 2017;

(2) "Rental" or "renting" means the rental by a dealer of heavy equipment property:

(A) For a period of less than one (1) year or for an undefined period; or

(B) Under a contract with unlimited terms; and



(3) "Rental charge" means the total charge for the rental of heavy equipment property, excluding any separately itemized costs representing charges for related nonrental items, including without limitation pickup and delivery, fuel, or a damage waiver.

(b) Except as provided in subsection (c) of this section, a person in the business of renting heavy equipment property in this state may include in a rental agreement or on a rental invoice a recovery fee of one and twenty-five-hundredths percent (1.25%) of the rental charge for the rental of an item of heavy equipment property to a customer located in the state.

(c) The recovery fee provided for in this section shall:

(1) Not be collected on a rental of heavy equipment property to the United States or this state, including without limitation a county, city, town, agency, board, commission, or institution of this state; and

(2) Be exempt from state and local sales and use taxes.

(d)(1) A business that collects a recovery fee as provided in this section shall:

(A) Account for and hold the recovery fees separately from all other business receipts; and

(B) Use the amount of the recovery fee collected under this section solely to pay ad valorem taxes levied on the business's tangible personal property located in this state; and

(2)(A) By February 15 of each year, remit to the county in which the business was assessed ad valorem taxes on heavy equipment property any recovery fees collected in the immediately preceding calendar year that exceed the aggregate ad valorem taxes that the business actually paid in that calendar year on the heavy equipment property of the business.

(B) If a business that collects a recovery fee under this section pays ad valorem taxes on heavy equipment property in more than one (1) county, the business shall remit any excess recovery fees not used to pay ad valorem taxes on heavy equipment property of the business to each county based on the ratio of ad valorem taxes paid to the county in the immediately preceding calendar year on the heavy equipment property of the business to the total of all ad valorem taxes paid in any county in the immediately preceding calendar year on heavy equipment property of the business.

(e) This section does not exempt heavy equipment property from ad valorem taxes.

SECTION 2. EFFECTIVE DATE. This act is effective beginning on and after January 1, 2018.

APPROVED: 03/07/2017