

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1361 Session of
1989

INTRODUCED BY LEWIS, REIBMAN AND MELLOW, NOVEMBER 22, 1989

REFERRED TO FINANCE, NOVEMBER 22, 1989

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," further defining "tangible personal property"
11 with respect to new manufactured housing; and further
12 providing for the imposition of the tax thereon.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 201(m) of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
17 August 31, 1971 (P.L.362, No.93), is amended to read:

18 Section 201. Definitions.--The following words, terms and
19 phrases when used in this Article II shall have the meaning
20 ascribed to them in this section, except where the context
21 clearly indicates a different meaning:

22 * * *

23 (m) "Tangible personal property." Corporeal personal

1 property including, but not limited to, goods, wares,
2 merchandise, steam and natural and manufactured and bottled gas
3 for non-residential use, electricity for non-residential use,
4 intrastate telephone and telegraph service for non-residential
5 use, spirituous or vinous liquor and malt or brewed beverages
6 and soft drinks; but the term shall not include household
7 supplies purchased at retail establishments for residential
8 consumption, including but not limited to, soaps, detergents,
9 cleaning and polishing preparations, paper goods, household
10 wrapping supplies and items of similar nature, or sanitary
11 napkins, tampons or similar items used for feminine hygiene. Nor
12 shall said term include steam, natural and manufactured and
13 bottled gas, fuel oil, electricity or intrastate telephone or
14 telegraph service when purchased directly by the user thereof
15 solely for his own residential use. New manufactured housing or
16 a new mobilehome, which bears a label as required by and
17 referred to in the act of November 17, 1982 (P.L.676, No.192),
18 known as the "Manufactured Housing Construction and Safety
19 Standards Authorization Act," which certifies that it conforms
20 to Federal construction and safety standards adopted pursuant to
21 the National Manufactured Housing Construction and Safety
22 Standards Act of 1974 (Public Law 93-383, 42 U.S.C § 5401 et
23 seq.), as amended, shall be deemed to be tangible personal
24 property only when there is a transfer of the ownership, custody
25 or possession of the manufactured housing for a consideration,
26 from a manufacturer to a dealer, for further transfer by that
27 dealer to an ultimate consumer or, when there is no dealer, from
28 a manufacturer to an ultimate consumer, for any use, including
29 use as living quarters or for commercial or rental purposes.
30 Used manufactured housing or used mobilehomes shall not be

1 deemed to be tangible personal property.

2 * * *

3 Section 2. Section 202 of the act is amended by adding a
4 subsection to read:

5 Section 202. Imposition of Tax.--* * *

6 (e) Notwithstanding any other provisions of this article,
7 the tax with respect to the sale or use of new manufactured
8 housing, as defined in section 201(m) of this article, shall be
9 imposed at the time the manufactured housing is transferred from
10 the manufacturer to a dealer or, if there is no dealer, from a
11 manufacturer to the ultimate consumer, and shall be computed on
12 the total amount billed by the manufacturer to the dealer or, if
13 there is no dealer, to the ultimate consumer. The tax shall be
14 reported and paid to the Commonwealth by the manufacturer who
15 transfers the ownership, custody or possession or the
16 manufactured housing to the dealer or to the ultimate consumer
17 and shall be collected from the dealer or, if there is no
18 dealer, from the ultimate consumer: Provided, However, That if
19 the tax is not reported and paid by the manufacturer who
20 transfers the manufactured housing, and such tax cannot be
21 assessed against and collected from the manufacturer because
22 that manufacturer is not doing business within this
23 Commonwealth, then the dealer or, if there is no dealer, the
24 ultimate consumer shall be responsible for payment of the tax.

25 Section 3. Section 237(b)(1) of the act, amended December
26 28, 1972 (P.L.1633, No.340), is amended to read:

27 Section 237. Collection of Tax.--* * *

28 (b) Collection by Persons Maintaining a Place of Business in
29 the Commonwealth. (1) Every person maintaining a place of
30 business in this Commonwealth and selling or leasing tangible

1 personal property or services, [including the selling or leasing
2 as tangible personal property mobilehomes as defined in "The
3 Vehicle Code" whether or not a certificate of title is issued by
4 the department,] the sale or use of which is subject to tax
5 shall collect the tax from the purchaser or lessee at the time
6 of making the sale or lease, and shall remit the tax to the
7 department, unless such collection and remittance is otherwise
8 provided in this act.

9 * * *

10 Section 4. The act is amended by adding a section to read:

11 Section 1102-C.6. Imposition of Tax on Manufactured Housing
12 and Mobilehomes.--(a) Every person, including a manufacturer or
13 dealer of new and used homes as referred to in section 201(m),
14 not otherwise subject to tax pursuant to section 1102-C of this
15 article, who transfers the ownership, custody or possession of
16 the manufactured housing or mobilehome for a consideration,
17 shall collect from the purchaser thereof a State tax at the rate
18 of two per cent of the value of the manufactured housing or
19 mobilehome, which value shall be determined by the total amount
20 billed by the person transferring the ownership, custody or
21 possession. This State tax shall be collected at the time the
22 transfer of the ownership, custody or possession of the
23 manufactured housing or mobilehome and shall be payable to the
24 department. Payment of the tax imposed by this section may, but
25 need not, be evidenced by the affixing of a documentary stamp or
26 stamps.

27 (b) Within thirty days of the receipt of the amount of the
28 tax imposed by this section, the department shall transmit one-
29 half of such amount to the recorder of deeds in the county in
30 which is located the political subdivision where the

1 manufactured housing or mobilehome will be permanently attached
2 to land or connected with water, gas, electric or sewage
3 facilities. As required by section 6(c) of the act of November
4 1, 1971 (P.L.495, No.113), entitled "An act providing for the
5 compensation of county officers in counties of the second
6 through eighth classes, for the disposition of fees, for filing
7 of bonds in certain cases and for duties of certain officers,"
8 the recorder of deeds shall be the collection agent for the
9 political subdivision levying a local realty transfer tax. If
10 the political subdivision does not levy a local realty transfer
11 tax, the recorder of deeds shall deposit the amount of the tax
12 in the general fund of the county.

13 (c) Manufactured housing or mobilehomes to which this
14 section applies, and pursuant to which the tax provided for by
15 this section has been collected and paid, shall not be subject
16 to local real estate transfer taxes or deed transfer taxes
17 pursuant to section 2(1) of the act of December 31, 1965
18 (P.L.1257, No.511), known as "The Local Tax Enabling Act."

19 Section 5. This act shall apply on January 1, 1990, with
20 respect to new manufactured housing transferred from a
21 manufacturer to a dealer or, if there is no dealer, to an
22 ultimate consumer on or after that date. This act shall apply on
23 January 1, 1990, with respect to used manufactured housing or
24 used mobile homes transferred to an ultimate consumer on or
25 after that date. Manufactured housing or mobile homes
26 transferred prior to that date shall be subject to tax as
27 provided for under existing law.

28 Section 6. This act shall take effect immediately.