

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 16-1260.01 Esther van Mourik x4215

HOUSE BILL 16-1457

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A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill codifies the department of revenue's 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 in order to clarify that the sales and use tax exemption applies to residences either billed under a single utility meter or a master utility meter and either charged at a residential, commercial, or other

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
2nd Reading Unamended
April 28, 2016

nonresidential utility rate, so long as the electricity, coal, wood, gas, fuel oil, or coke is used for powering lights, refrigerators, stoves, water heaters, space heaters, air conditioners, or other domestic items that require power or fuel in a residence. The bill also states, consistent with current practice, that "residential use" is presumed when a utility company charges a residential utility rate.

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

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

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

10 **39-26-715. Fuel and oil - definitions.** (1) (a) The following are
11 exempt from taxation under the provisions of part 1 of this article:

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

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

1 gas.

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

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

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

17 (c) ~~Effective July 1, 1980~~ ON AND AFTER THE EFFECTIVE DATE OF
18 THIS PARAGRAPH (c), AS AMENDED, the storage, use, or consumption of
19 electricity, coal, wood, gas, fuel oil, or coke sold ~~but not for resale, to any~~
20 ~~occupant of a residence, whether owned, leased, or rented by the~~
21 ~~occupant, for the purpose of operating fixtures or appliances that provide~~
22 ~~light, heat, or power for the residence~~ FOR RESIDENTIAL USE. RESIDENTIAL
23 USE IS PRESUMED WHEN A UTILITY COMPANY CHARGES A RESIDENTIAL
24 UTILITY RATE AND SUCH UTILITY COMPANY MAY CONCLUSIVELY RELY ON
25 SUCH PRESUMPTION. For the purposes of this paragraph (c):

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

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

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

14 **SECTION 3. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.