

ADOPTED



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NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1050*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1050-ARB-116 [v.2]

Page 1 of 3

Comm. Sub. [YES]
Amends Title [NO]
Fourth Edition

Date _____, 2014

Senator Rucho

1 moves to amend the bill on page 7, lines 9 through 25, by rewriting the lines to read:

2 **PART III. AGRICULTURAL EXEMPTION CERTIFICATE**

3 **SECTION 3.1.(a)** G.S. 105-164.13E reads as rewritten:

4 "**§ 105-164.13E. Exemption for farmers.**

5 (a) Exemption. – A qualifying farmer is a person who has an annual gross income for
6 the preceding taxable year of ten thousand dollars (\$10,000) or more from farming operations
7 or who has an average annual gross income for the three preceding taxable years of ten
8 thousand dollars (\$10,000) or more from farming operations. A qualifying farmer includes a
9 dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a
10 farmer of an aquatic species, as defined in G.S. 106-758. A qualifying farmer may apply to the
11 Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption
12 certificate expires when a person fails to meet the income threshold for three consecutive
13 taxable years or ceases to engage in farming operations.

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14 The following tangible personal property, digital property, and services are exempt from
15 sales and use tax if purchased by a qualifying farmer and for use by the farmer in farming
16 operations. For purposes of this section, an item is used by a farmer for farming operations if it
17 is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of
18 dairy products, eggs, or animals;

Deleted: animals. A qualifying farmer is a farmer who has an annual gross income of ten thousand dollars (\$10,000) or more from farming operations for the preceding calendar year and includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758:

19"

20 (b) Conditional Exemption. – A person who does not meet the definition of a qualifying
21 farmer in subsection (a) of this section may apply to the Department for a conditional
22 exemption certificate under G.S. 105-164.28A. A person with a conditional exemption
23 certificate is allowed to purchase items exempt from sales and use tax to the same extent as a
24 qualifying farmer under subsection (a) of this section. To receive a conditional exemption
25 certificate under this subsection, the person must certify that the person intends to engage in
26 farming operations, as that term is described in subsection (a) of this section, and that the
27 person will timely file State and federal income tax returns that reflect income and expenses
28 incurred from farming operations during the taxable years that the conditional exemption
29 certificate applies.

30 A conditional exemption certificate issued under this subsection is valid for the taxable year
31 in which the certificate is issued and the following two taxable years provided the person to
32 whom the certificate is issued provides copies of applicable State and federal income tax



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Page 2 of 3

1 returns to the Department within 90 days following the end of each taxable year covered by the
2 conditional exemption certificate. A conditional exemption certificate issued under this
3 subsection may not be extended or renewed beyond the original three-year period. The
4 Department may not issue a conditional exemption certificate to a person who has had a
5 conditional exemption certificate issued under this subsection during the prior 15 taxable years.

6 A person who purchases items with a conditional exemption certificate must maintain
7 documentation of the items purchased and copies of State and federal income tax returns that
8 reflect activities from farming operations for the period of time covered by the conditional
9 exemption certificate for three years following the expiration of the conditional exemption
10 certificate. The Secretary may require a person who has a conditional exemption certificate to
11 provide any other information requested by the Secretary to verify the person met the
12 conditions of this subsection. A person who fails to provide the information requested by the
13 Secretary in a timely manner or who fails to meet the requirements of this subsection becomes
14 liable for any taxes for which an exemption under this subsection was claimed. The taxes
15 become due and payable at the expiration of the conditional exemption certificate and interest
16 accrues from the date of the original purchase. Additionally, where the person does not timely
17 provide the information requested by the Secretary, the misuse of exemption certificate penalty
18 in G.S. 105-236(a)(5a) applies to each seller identified by the Department from which the
19 person made a purchase.";

20
21 And on page 7, lines 27 and 28, by rewriting the lines to read:

22 **SECTION 3.1.(b)** G.S. 105-164.28A reads as rewritten:

23 **"§ 105-164.28A. Other exemption certificates.**

24 (a) Authorization. – The Secretary may require a person who purchases an item that is";

25
26 And on page 7, line 44, by rewriting the line to read:

27 "obtaining an exemption certificate.

28 ...

29 (c) Administration. – This section shall be administered in accordance with G.S.
30 105-164.28. Additionally, the provisions of this section may also apply to a conditional
31 exemption certificate issued to a person in accordance with G.S. 105-164.13E.";

32
33 And on page 7, lines 44 and 45, by inserting a new section between those lines to read and by
34 re-lettering the remaining sections accordingly:

35 **"SECTION 3.1.(c)** G.S. 105-236(a)(5a) reads as rewritten:

36 **"§ 105-236. Penalties; situs of violations; penalty disposition.**

37 (a) Penalties. – The following civil penalties and criminal offenses apply:

38 ...

39 (5a) Misuse of Exemption Certificate. – For misuse of an exemption certificate
40 by a purchaser, the Secretary shall assess a penalty equal to two hundred
41 fifty dollars (\$250.00). An exemption certificate is a certificate issued by the
42 Secretary that authorizes a retailer to sell tangible personal property to the
43 holder of the certificate and either collect tax at a preferential rate or not

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Page 3 of 3

1 collect tax on the sale. Examples of an exemption certificate include a
2 certificate of ~~exemption~~, a direct pay certificate, and a conditional exemption
3 certificate.
4 ...".

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Deleted: farmer's

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

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