

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1050*

AMENDMENT NO. A6
(to be filled in by
Principal Clerk)

H1050-AMM-46 [v.5]

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

Date _____, 2014

Senator Rucho

1 moves to amend Amendment #2 on page 1, line 1, through page 3, line 4, of the Amendment by
2 rewriting the lines to read:

3 "moves to amend the bill on page 7, lines 8 through 26, by rewriting the lines to read:

4 **PART III. AGRICULTURAL EXEMPTION CERTIFICATE**

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

6 "**§ 105-164.13E. Exemption for farmers.**

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

16 ~~The~~ following tangible personal property, digital property, and services are exempt from
17 sales and use tax if purchased by a qualifying farmer and for use by the farmer in farming
18 operations. For purposes of this section, an item is used by a farmer for farming operations if it
19 is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of
20 dairy products, eggs, or animals. ~~A qualifying farmer is a farmer who has an annual gross~~
21 ~~income of ten thousand dollars (\$10,000) or more from farming operations for the preceding~~
22 ~~calendar year and includes a dairy operator, a poultry farmer, an egg producer, a livestock~~
23 ~~farmer, a farmer of crops, and a farmer of an aquatic species, as defined in~~
24 ~~G.S. 106-758:~~animals:

25 ...

26 (b) Conditional Exemption. – A person who does not meet the definition of a qualifying
27 farmer in subsection (a) of this section may apply to the Department for a conditional
28 exemption certificate under G.S. 105-164.28A. A person with a conditional exemption
29 certificate is allowed to purchase items exempt from sales and use tax to the same extent as a
30 qualifying farmer under subsection (a) of this section. To receive a conditional exemption
31 certificate under this subsection, the person must certify that the person intends to engage in
32 farming operations, as that term is described in subsection (a) of this section, and that the



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1 person will timely file State and federal income tax returns that reflect income and expenses
2 incurred from farming operations during the taxable years that the conditional exemption
3 certificate applies.

4 A conditional exemption certificate issued under this subsection is valid for the taxable year
5 in which the certificate is issued and the following two taxable years, provided the person to
6 whom the certificate is issued provides copies of applicable State and federal income tax
7 returns to the Department within 90 days following the end of each taxable year covered by the
8 conditional exemption certificate. A conditional exemption certificate issued under this
9 subsection may not be extended or renewed beyond the original three-year period. The
10 Department may not issue a conditional exemption certificate to a person who has had a
11 conditional exemption certificate issued under this subsection during the prior 15 taxable years.

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

26
27 And on page 7, lines 27 and 28, by rewriting the lines to read:

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

29 **"§ 105-164.28A. Other exemption certificates.**

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

31
32 And on page 7, line 44, by rewriting the line to read:

33 "obtaining an exemption certificate.

34 ...

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

38
39 And on page 7, lines 44 and 45, by inserting a new section between those lines to read and by
40 re-lettering the remaining sections accordingly:

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

42 **"§ 105-236. Penalties; situs of violations; penalty disposition.**

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

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1 ...

2 (5a) Misuse of Exemption Certificate. – For misuse of an exemption certificate

3 by a purchaser, the Secretary shall assess a penalty equal to two hundred

4 fifty dollars (\$250.00). An exemption certificate is a certificate issued by the

5 Secretary that authorizes a retailer to sell tangible personal property to the

6 holder of the certificate and either collect tax at a preferential rate or not

7 collect tax on the sale. Examples of an exemption certificate include a

8 certificate of ~~resale~~exemption, a direct pay certificate, and a

9 ~~farmer's~~conditional exemption certificate.

10 ".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

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and vote information, is available in the
Senate Principal Clerk's Office**