



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT

Bill _____

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

_____ARB-2 [v.1]

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Comm. Sub. [NO]
Amends Title [NO]

Date _____, 2014

Senator _____

1 moves to amend 2015-SVx-1 (*Bill draft presented at the October Revenue Laws meeting*) on
2 page 5, line 10, through page 6, line 16, by rewriting the lines to read:

3 "SECTION 12.(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 from
6 farming operations for the preceding taxable year of ten thousand dollars (\$10,000) or more
7 ~~from farming operations~~ or who has an average annual ~~gross~~ income from farming operations
8 for the three preceding taxable years of ten thousand dollars (\$10,000) or ~~more from farming~~
9 ~~operations.~~ more. For purposes of this section, the term "income from farming operations"
10 means sales plus any other amounts treated as gross income under the Code from farming
11 operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, a
12 livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in
13 G.S. 106-758. A qualifying farmer may apply to the Secretary for an exemption certificate
14 number under G.S. 105-164.28A. The exemption certificate expires when a person fails to meet
15 the income threshold for three consecutive taxable years or ceases to engage in farming
16 ~~operations.~~ operations, whichever comes first.

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

- 22 (1) ~~Fuel and~~ Fuel, piped natural gas, and electricity that ~~is~~ are measured by a
23 separate meter or another separate device and used for a purpose other than
24 preparing food, heating dwellings, and other household purposes.
- 25 (2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers,
26 potting soil, baler twine, and seeds.
- 27 (3) Farm machinery, attachment and repair parts for farm machinery, and
28 lubricants applied to farm machinery. The term "machinery" includes
29 implements that have moving parts or are operated or drawn by an animal.
30 The term does not include implements operated wholly by hand or motor
31 vehicles required to be registered under Chapter 20 of the General Statutes.



* U N K N O W N - A R B - 2 - V - 1 *

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- 1 (4) A container used in the planting, cultivating, harvesting, or curing of farm
2 crops or in the production of dairy products, eggs, or animals or used in
3 packaging and transporting the farmer's product for sale.
- 4 (5) A grain, feed, or soybean storage facility and parts and accessories attached
5 to the facility.
- 6 (6) Any of the following substances when purchased for use on animals or
7 plants, as appropriate, held or produced for commercial purposes. This
8 exemption does not apply to any equipment or devices used to administer,
9 release, apply, or otherwise dispense these substances:
- 10 a. Remedies, vaccines, medications, litter materials, and feeds for
11 animals.
- 12 b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.
- 13 c. Defoliants for use on cotton or other crops.
- 14 d. Plant growth inhibitors, regulators, or stimulators, including systemic
15 and contact or other sucker control agents for tobacco and other
16 crops.
- 17 e. Semen.
- 18 (7) Baby chicks and poults sold for commercial poultry or egg production.
- 19 (8) Any of the following items concerning the housing, raising, or feeding of
20 animals:
- 21 a. A commercially manufactured facility to be used for commercial
22 purposes for housing, raising, or feeding animals or for housing
23 equipment necessary for these commercial activities. The exemption
24 also applies to commercially manufactured equipment, and parts and
25 accessories for the equipment, used in the facility.
- 26 b. Building materials, supplies, fixtures, and equipment that become a
27 part of and are used in the construction, repair, or improvement of an
28 enclosure or a structure specifically designed, constructed, and used
29 for housing, raising, or feeding animals or for housing equipment
30 necessary for one of these commercial activities. The exemption also
31 applies to commercially manufactured equipment, and parts and
32 accessories for the equipment, used in the enclosure or a structure.
- 33 (9) A bulk tobacco barn or rack, parts and accessories attached to the tobacco
34 barn or rack, and any similar apparatus, part, or accessory used to cure or dry
35 tobacco or another crop.

36 (b) Conditional Exemption. – A person who does not meet the definition of a qualifying
37 farmer in subsection (a) of this section may apply to the Department for a conditional
38 exemption certificate under G.S. 105-164.28A. A person with a conditional exemption
39 certificate is allowed to purchase items exempt from sales and use tax to the same extent as a
40 qualifying farmer under subsection (a) of this section. To receive a conditional exemption
41 certificate under this subsection, the person must certify that the person intends to engage in
42 farming operations, as that term is described in subsection (a) of this section, and that the
43 person will timely file State and federal income tax returns that reflect income and expenses

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1 incurred from farming operations during the taxable years that the conditional exemption
2 certificate applies.

3 A conditional exemption certificate issued under this subsection is valid for the taxable year
4 in which the certificate is issued and the following two taxable years, provided the person to
5 whom the certificate is issued provides copies of applicable State and federal income tax
6 returns to the Department within 90 days following the end of each taxable year covered by the
7 conditional exemption ~~certificate.~~ certificate and provided the person is engaged in farming
8 operations. A conditional exemption certificate issued under this subsection may not be
9 extended or renewed beyond the original three-year period. The Department may not issue a
10 conditional exemption certificate to a person who has had a conditional exemption certificate
11 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 (c) Contract with a Farmer. – A qualifying item listed in subdivisions (5), (8), and (9) of
27 subsection (a) of this section purchased to fulfill a contract with a person who holds a
28 qualifying farmer exemption certificate or a conditional farmer exemption certificate issued
29 under G.S. 105-164.28A is exempt from sales and use tax to the same extent as if purchased
30 directly by the person who holds the exemption certificate. A contractor that purchases one of
31 the items allowed an exemption under this section must provide an exemption certificate to the
32 retailer that includes the name of the agricultural exemption certificate holder and the
33 agricultural exemption certificate number issued to that holder.

34 (d) Definition. – For purposes of this section, the term "taxable year" has the same
35 meaning as defined in G.S. 105-153.3.'

36 **SECTION 12.(b)** This section becomes effective July 1, 2014. A contractor who
37 paid sales and use tax on an item exempt from sales and use tax pursuant to
38 G.S. 105-164.13(c), as enacted by this section, may request a refund from the retailer and the
39 retailer may, upon issuance of the refund or credit, request a refund for the overpayment of tax
40 under G.S. 105-164.11(a)(1)."

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SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____