

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL DRS15189-MC-122

Short Title: Expand Certain APA Standing Provisions. (Public)

Sponsors: Senators Moffitt, Sawrey, and B. Newton (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A REBUTTABLE PRESUMPTION OF STANDING UNDER THE
3 ADMINISTRATIVE PROCEDURE ACT FOR TRADE AND BUSINESS
4 ASSOCIATIONS AND ORGANIZATIONS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 150B-4 reads as rewritten:

7 "§ 150B-4. Declaratory rulings.

8 (a) On request of a person aggrieved, an agency shall issue a declaratory ruling as to the
9 validity of a rule or as to the applicability to a given state of facts of a statute administered by the
10 agency or of a rule or order of the agency. Upon request, an agency shall also issue a declaratory
11 ruling to resolve a conflict or inconsistency within the agency regarding an interpretation of the
12 law or a rule adopted by the agency. The agency shall prescribe in its rules the procedure for
13 requesting a declaratory ruling and the circumstances in which rulings shall or shall not be issued.
14 A declaratory ruling is binding on the agency and the person requesting it unless it is altered or
15 set aside by the court. An agency may not retroactively change a declaratory ruling, but nothing
16 in this section prevents an agency from prospectively changing a declaratory ruling. For purposes
17 of this section, there is a presumption that a person aggrieved includes an association,
18 organization, society, or other entity collectively representing persons similarly situated to a
19 person aggrieved. The presumption may be rebutted by specific findings by the agency that that
20 the interests of the collective entity are not substantially similar to the person aggrieved with
21 respect to the declaratory ruling sought.

22 (a1) An agency shall respond to a request for a declaratory ruling as follows:

23 ...

24 (4) If the agency fails to issue a declaratory ruling within 45 days, the failure shall
25 be deemed a denial on the merits, and the person aggrieved may seek judicial
26 review pursuant to Article 4 of this Chapter. Upon review of an agency's
27 failure to issue a declaratory ruling, the court shall not consider any basis for
28 the denial that was not presented in writing to the person aggrieved.

29 (b) Repealed by Session Laws 1997-34, s. 1."

30 SECTION 2. This act becomes effective July 1, 2023, and applies to declaratory
31 rulings requested on or after that date.



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