

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL DRS45210-MC-119

Short Title: Augment Agency Appeal Rights. (Public)

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

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW FOR APPEAL FROM CERTAIN AGENCY DETERMINATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 133-17 reads as rewritten:

"§ 133-17. **Administrative payments; payment; appeal.**

(a) Administrative Payment. – Nothing contained in this Article shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of damages not in existence on the date of enactment of this Article. Payments made and services rendered under this Article are administrative payments and in addition to just compensation as provided by the law of eminent domain. ~~Nothing contained in this Article shall be construed as creating any right enforceable in any court and the determination of the agency under the procedure provided for in G.S. 133-14 shall be conclusive and not subject to judicial review.~~

(b) Appeal. – Any person who is aggrieved by an agency determination, including one deciding a claim submitted for funding assistance under this Article or applicable federal law, by an agency head or administrative officer under the procedure provided for in G.S. 133-14 after exhausting all administrative remedies made available to him by rules and regulations enacted pursuant to this Article is entitled to judicial review of the agency determination under this Article. In order to obtain judicial review of the final agency determination under this Article, the person seeking review must file a petition in the superior court of the county in which the displacement has occurred or will occur within 30 days after written copy of the final agency determination is served upon the person seeking review. In a final agency determination, the agency shall notify the person of the appeal rights under this section. Failure to file such a petition within the time stated waives the right of such person to review under this section. For good cause shown, however, the superior court may accept an untimely petition.

The petition shall state explicitly what exceptions are taken to the agency determination and what relief the petitioner seeks. Within 10 days after the petition is filed with the court, the person seeking the review shall serve copies of the petition by registered mail, return receipt requested, upon the agency. Within 30 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the agency shall transmit to the reviewing court a certified copy of the agency determination.

An aggrieved person is not estopped or barred from pursuing an appeal of a final agency determination as a result of such person receiving funding assistance or other assistance under this Article prior to or during the pendency of the appeal. The review of the agency determination under this Article shall be conducted by the court without a jury and shall hear the matter de novo pursuant to the rules of evidence and procedures as applied in the general court of justice. The



1 court, after hearing the matter, may affirm, reverse, or modify the agency determination if it is
2 one or more of the following:

3 (1) In violation of constitutional provisions;

4 (2) Not made in accordance with this Article or rules or regulations promulgated
5 by the agency or not in accordance with applicable federal law; or

6 (3) Affected by other error or law.

7 The party aggrieved shall have the burden of showing that the agency determination was
8 violative of one of the above.

9 A party to the review proceedings, including the agency, may appeal to the appellate division
10 from the final judgment of the superior court under the rules of procedure applicable in other
11 civil cases. The appealing party may apply to the superior court for a stay for its final
12 determination or a stay of the agency determination, whichever shall be appropriate, pending the
13 outcome of the appeal to the appellate division."

14 **SECTION 2.** This act is effective when it becomes law and applies to administrative
15 proceedings for which a final determination is entered on or after that date.