

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1262
Finance Committee Substitute Adopted 7/7/92

Short Title: Modify Property Tax Appeals.

(Public)

Sponsors:

Referred to:

July 1, 1992

A BILL TO BE ENTITLED

1 AN ACT TO MODIFY THE PROCEDURE FOR PROPERTY TAX APPEALS
2 BEFORE THE PROPERTY TAX COMMISSION FROM APPRAISAL AND
3 LISTING DECISIONS, TO LEVY A FEE FOR FILING AN APPEAL TO THE
4 PROPERTY TAX COMMISSION, AND TO CHANGE THE AUTHORITY TO
5 APPOINT ONE MEMBER OF THE PROPERTY TAX COMMISSION FROM
6 THE PRESIDENT OF THE SENATE TO THE PRESIDENT PRO TEMPORE OF
7 THE SENATE.
8

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 105-290(b) reads as rewritten:

11 "(b) Appeals from Appraisal and Listing Decisions. – The Property Tax
12 Commission shall hear and decide appeals from decisions concerning the listing,
13 appraisal, or assessment of property made by county boards of equalization and review
14 and boards of county commissioners. Any property owner of the county may except to
15 an order of the county board of equalization and review or the board of county
16 commissioners concerning the listing, appraisal, or assessment of property and appeal
17 the order to the Property Tax Commission.

18 (1) In ~~such~~ these cases, taxpayers and persons having ownership interests
19 in the property subject to taxation may file separate appeals or joint
20 appeals at the election of one or more of the taxpayers. It is the intent
21 of this provision that all owners of a single item of personal property
22 or tract or parcel of real property be allowed to join in one appeal and
23 also that any taxpayer be allowed to include in one appeal all

1 objections timely presented regardless of the fact that the listing or
2 valuation of more than one item of personal property or tract or parcel
3 of real property is the subject of the appeal.

4 (2) When an appeal is filed, the Property Tax Commission shall provide a
5 hearing before representatives of the Commission or the full
6 Commission as specified in this subdivision.

7 a. Hearing by Commission Representatives. – The Commission is
8 ~~empowered to authorize any member or may authorize one or~~
9 more members of the Commission or ~~employee-employees of~~
10 the Department of Revenue to hear an appeal, to make
11 examinations and investigations, to have made from
12 stenographic notes a full and complete record of the evidence
13 offered at the hearing, and to make recommended findings of
14 fact and conclusions of law. Should the Commission elect to
15 follow this procedure, it shall fix the time and place at which its
16 ~~representative or representatives~~ will hear the appeal and, at least
17 10 days before the hearing, give written notice ~~thereof of the~~
18 hearing to the appellant and to the clerk of the board of
19 commissioners of the county from which the appeal is taken. At
20 the hearing the Commission's ~~representative or representatives~~
21 shall hear all evidence and affidavits offered by the appellant
22 and appellee county and may exercise the authority granted by
23 subsection (d), below, to obtain information pertinent to
24 decision of the appeal. The ~~representative or representatives~~
25 conducting the hearing shall submit to the Commission and to
26 the appellant and appellee ~~a full record of the proceeding and his or~~
27 their recommended findings of fact and conclusions of law.
28 Upon the request of any party, the representatives conducting
29 the hearing shall also submit to the Commission and to the
30 appellant and appellee a full record of the proceeding. The cost
31 of providing the full record of the proceeding shall be borne by
32 the party requesting it, unless the Commission determines for
33 good cause that the cost should be borne by the Commission.
34 The Commission shall review the record, the recommended
35 findings of fact and conclusions of law, and any written
36 arguments that may be submitted to the Commission by the
37 appellant or appellee within 15 days following the date on
38 which the findings and conclusions were submitted to the
39 parties and shall take one of the following actions:

- 40 1. Accept the recommended findings of fact and
41 conclusions of law and issue an appropriate order as
42 provided in subdivision (b)(3), below.
- 43 2. Make new findings of fact or conclusions of law based
44 upon the ~~record-materials~~ submitted by the Commission's

1 ~~representative or~~ representatives and issue an appropriate
2 order as provided in subdivision (b)(3), below.

3 3. Rehear the appeal under the procedure provided in
4 subdivision (b)(2)b, below, with respect to any portion of
5 the record or recommended findings of fact or
6 conclusions of law.

7 b. Hearing by Full Commission. – Should the Commission elect
8 not to employ the procedure provided in subdivision (b)(2)a,
9 above, it shall fix a time and place at which the Commission
10 shall hear the appeal and, at least 10 days before the hearing,
11 give written notice ~~thereof~~ of the hearing to the appellant and to
12 the clerk of the board of commissioners of the county from
13 which the appeal is taken. At the hearing the Commission shall
14 hear all evidence and affidavits offered by the appellant and
15 appellee county and may exercise the authority granted by
16 subsection (d), below, to obtain information pertinent to
17 decision of the appeal. The Commission shall make findings of
18 fact and conclusions of law and issue an appropriate order as
19 provided in subdivision (b)(3), below.

20 (3) On the basis of the findings of fact and conclusions of law made after
21 any hearing provided for by this subsection (b), the Property Tax
22 Commission shall enter an order (incorporating the findings and
23 conclusions) reducing, increasing, or confirming the valuation or
24 valuations appealed or listing or removing from the tax lists the
25 property whose listing has been appealed. A certified copy of the order
26 shall be delivered to the appellant and to the clerk of the board of
27 commissioners of the county from which the appeal was taken, and the
28 abstracts and tax records of the county shall be corrected to reflect the
29 Commission's order."

30 Sec. 2. G.S. 105-290 is amended by adding at the end a new subsection to
31 read:

32 "(h) Fee. – A fee is imposed on a property owner who files an appeal to the
33 Property Tax Commission. The fee is equal to the costs imposed in G.S. 7A-305(a) for
34 a civil action in district court not assigned to a magistrate. The property owner must
35 submit the fee to the Property Tax Commission with the notice of appeal. The fee shall
36 be credited to the General Fund as nontax revenue."

37 Sec. 3. G.S. 105-288(a) reads as rewritten:

38 "(a) Creation and Membership. – The Property Tax Commission is created. It
39 consists of five members, three of whom are appointed by the Governor and two of
40 whom are appointed by the General Assembly. Of the two appointments by the General
41 Assembly, one shall be made upon the recommendation of the Speaker of the House of
42 Representatives and the other shall be made upon the recommendation of the President
43 Pro Tempore of the Senate. The terms of the members appointed by the Governor and
44 of the member appointed upon the recommendation of the President Pro Tempore of the

1 Senate are for four years. Of the members appointed for four-year terms, two expire on
2 June 30 of each odd-numbered year. The term of the member appointed upon the
3 recommendation of the Speaker of the House of Representatives is for two years and it
4 expires on June 30 of each odd-numbered year. The General Assembly shall make its
5 appointments in accordance with G.S. 120-121 and shall fill a vacancy in accordance
6 with G.S. 120-122. A vacancy occurs on the Commission when a member resigns, is
7 removed, or dies. The person appointed to fill a vacancy shall serve for the balance of
8 the unexpired term. The Governor may remove any member for misfeasance,
9 malfeasance, or nonfeasance.

10 The Commission shall have a chair and a vice-chair. The Governor shall designate
11 one of the Commission members as the chair, to serve at the pleasure of the Governor.
12 The members of the Commission shall elect a vice-chair from among its membership.
13 The vice-chair serves until the member's regularly appointed term expires."

14 Sec. 4. This act becomes effective August 1, 1992. Section 1 of this act
15 applies to appeals pending or filed on or after that date. Section 2 of this act applies to
16 appeals filed on or after that date.