**South Carolina General Assembly**

121st Session, 2015-2016

**H. 5090**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Hiott, Anderson, H.A. Crawford, Clemmons, Johnson, Duckworth, Hardee, Ryhal, Fry, Goldfinch, Burns, Forrester, Collins, Loftis, Crosby, Bales, Taylor, George, Whitmire, Putnam, Southard, Jordan, Allison, Hicks, Anthony, Atwater, Ballentine, Bannister, Chumley, Daning, Delleney, Felder, Hamilton, Hixon, Limehouse, Long, Lowe, D.C. Moss, V.S. Moss, Nanney, Pitts, Pope, Rivers, Sandifer, Simrill, G.R. Smith, Stringer, Thayer, Wells, White, Willis, Murphy, Gambrell, Gagnon, Erickson and Tallon

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Companion/Similar bill(s): 165, 4011

Introduced in the House on March 10, 2016

Currently residing in the House Committee on **Judiciary**

Summary: Administrative Law Court

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/10/2016 House Introduced and read first time ([House Journal‑page 39](file:///h:\HJ%20Archive\2016\03-10-16.docx))

3/10/2016 House Referred to Committee on **Judiciary** ([House Journal‑page 39](file:///h:\HJ%20Archive\2016\03-10-16.docx))

3/15/2016 House Member(s) request name removed as sponsor: Brannon

3/17/2016 House Member(s) request name removed as sponsor: Clary, Tallon, Gagnon, Gambrell

4/13/2016 House Member(s) request name removed as sponsor: Newton, Erickson

4/14/2016 House Member(s) request name removed as sponsor: Henderson, Sottile

4/21/2016 House Member(s) request name added as sponsor: Gambrell, Gagnon, Erickson, Murphy

4/27/2016 House Member(s) request name removed as sponsor: Spires

4/28/2016 House Member(s) request name added as sponsor: Tallon

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**VERSIONS OF THIS BILL**

[3/10/2016](file:///p:\pprever\2015-16\5090_20160310.docx)

**A** **BILL**

TO AMEND SECTION 1‑23‑600, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HEARINGS AND PROCEEDINGS IN THE ADMINISTRATIVE LAW COURT, SO AS TO PROVIDE THAT A REQUEST FOR A CONTESTED CASE HEARING FOR AN AGENCY ORDER STAYS THE ORDER FOR THIRTY DAYS, PROVIDED, HOWEVER, THAT MATTERS NOT AFFECTED BY THE REQUEST MAY NOT BE STAYED BY THE FILING OF THE REQUEST, AND TO DELETE THE PROVISIONS THAT A REQUEST FOR A CONTESTED CASE HEARING FOR AN ORDER TO REVOKE OR SUSPEND A LICENSE STAYS THE REVOCATION OR SUSPENSION, AND FOR A DECISION TO RENEW A LICENSE FOR AN ONGOING ACTIVITY STAYS THE RENEWED LICENSE, AND TO PROVIDE THAT AFTER A CONTESTED CASE IS INITIATED BEFORE THE ADMINISTRATIVE LAW COURT, A PARTY MAY MOVE BEFORE THE PRESIDING ADMINISTRATIVE LAW JUDGE FOR INJUNCTIVE RELIEF PURSUANT TO APPLICABLE LAW, AND TO DELETE THE PROVISION THAT THE COURT SHALL LIFT THE STAY FOR GOOD CAUSE SHOWN OR IF NO IRREPARABLE HARM WILL OCCUR, THEN THE STAY SHALL BE LIFTED, TO DELETE THE REQUIREMENT THAT A HEARING MUST BE HELD WITHIN THIRTY DAYS TO LIFT THE AUTOMATIC STAY OR FOR A DETERMINATION OF THE APPLICABILITY OF THE AUTOMATIC STAY, TO DELETE THE REQUIREMENT THAT THE JUDGE MUST ISSUE AN ORDER NO LATER THAN FIFTEEN BUSINESS DAYS AFTER THE HEARING IS CONCLUDED, AND TO PROVIDE THAT ANY INJUNCTION ORDERED BY THE ADMINISTRATIVE LAW COURT SHALL REQUIRE THE POSTING OF A BOND OR OTHER SECURITY SUFFICIENT FOR THE COST AND EXPENSE OF THE LITIGATION AND PROJECT DELAY AS DEMONSTRATED BY AN AFFIDAVIT MADE ON A GOOD FAITH ESTIMATE OF SUCH COST AND EXPENSE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 1‑23‑600(H) of the 1976 Code, as last amended by Act 334 of 2008, is further amended to read:

“(H)(1) This subsection applies to timely requests for a contested case hearing pursuant to this section of decisions by departments governed by a board or commission authorized to exercise the sovereignty of the State.

(2) A request for a contested case hearing for an agency order stays the order~~. A request for a contested case hearing for an order to revoke or suspend a license stays the revocation or suspension. A request for a contested case hearing for a decision to renew a license for an ongoing activity stays the renewed license, the previous license remaining in effect pending completion of administrative review. A request for a contested case hearing for a decision to issue a new license stays all actions for which the license is a prerequisite;~~ for thirty days; provided, however, that matters not affected by the request may not be stayed by the filing of the request. If the request is filed for a subsequent license related to issues substantially similar to those considered in a previously licensed matter, the license may not be automatically stayed by the filing of the request. ~~If the requesting party asserts in the request that the issues are not substantially similar to those considered in a previously licensed matter, then the license must be stayed until further order of the Administrative Law Court.~~ Requests for contested case hearings challenging only the amount of fines or penalties must be deemed not to affect those portions of orders imposing substantive requirements.

(3) The general rule of subsection (H)(2) does not stay emergency actions taken by an agency pursuant to an applicable statute or regulation.

(4) After a contested case is initiated before the Administrative Law Court, a party may move before the presiding administrative law judge ~~to lift the stay imposed pursuant to this subsection~~ for injunctive relief pursuant to applicable law. ~~Upon motion by any party, the court shall lift the stay for good cause shown or if no irreparable harm will occur, then the stay shall be lifted. A hearing must be held within thirty days after the motion is filed with the court and served upon the parties to lift the automatic stay or for a determination of the applicability of the automatic stay. The judge must issue an order no later than fifteen business days after the hearing is concluded.~~ Any injunction ordered by the Administrative Law Court shall require the posting of a bond or other security sufficient for the cost and expense of the litigation and project delay as demonstrated by an affidavit made on a good faith estimate of the cost and expense.

(5) A final decision issued by the Administrative Law Court in a contested case may not be stayed except by order of the Administrative Law Court or the court of appeals.

(6) Nothing contained in this subsection constitutes a limitation on the authority of the Administrative Law Court to impose a stay as otherwise provided by statute or by rule of court.”

SECTION 2. This act takes effect upon approval by the Governor.

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