**South Carolina General Assembly**

122nd Session, 2017-2018

**S. 112**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Hembree and Goldfinch

Document Path: l:\s-res\gh\006auto.kmm.gh.docx

Companion/Similar bill(s): 105, 3565

Introduced in the Senate on January 10, 2017

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

Summary: Automatic stay concerning licenses

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/13/2016 Senate Prefiled

12/13/2016 Senate Referred to Committee on **Judiciary**

1/10/2017 Senate Introduced and read first time ([Senate Journal‑page 66](file:///h:\sj\20170110.docx))

1/10/2017 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 66](file:///h:\sj\20170110.docx))

1/13/2017 Senate Referred to Subcommittee: Hembree (ch), McElveen, Gambrell

1/26/2017 Senate Referred to Subcommittee: Massey (ch), McElveen, Gambrell

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**VERSIONS OF THIS BILL**

[12/13/2016](file:///p:\pprever\2017-18\112_20161213.docx)

**A** **BILL**

TO AMEND SECTION 1-23-600(H) OF THE 1976 CODE, RELATING TO TIMELY REQUESTS FOR CONTESTED CASE HEARINGS, TO ESTABLISH AN AUTOMATIC STAY CONCERNING LICENSE ISSUANCES, RENEWALS AND THE LIKE, AND TO PROVIDE FOR THE CIRCUMSTANCES UNDER WHICH THE AUTOMATIC STAY MAY BE LIFTED.

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

SECTION 1. Section 1‑23‑600(H) of the 1976 Code is 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~~ from an agency decision granting a license stays the license ~~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 and, if a request for preliminary injunctive relief is filed with the Administrative Law Court, until an order granting or denying preliminary injunctive relief is issued by the Administrative Law Court at which time the stay is lifted; 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.~~ 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 of an order to revoke, enforce, or suspend a license stays the revocation or suspension. Requests for contested case hearings challenging only the amount of fines or penalties stays the obligation to pay such monetary fines and penalties until a final order is issued by the Administrative Law Court, but ~~must be deemed~~ does not ~~to~~ affect those portions of such 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 preliminary 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 preliminary injunction ordered by the Administrative Law Court may 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. State agencies are exempt from the requirement to post a bond under this section.

(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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