

§ 105-290. Appeals to Property Tax Commission.

(a) Duty to Hear Appeals. – In its capacity as the State board of equalization and review, the Property Tax Commission shall hear and adjudicate appeals from boards of county commissioners and from county boards of equalization and review as provided in this section.

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

- (1) In these cases, taxpayers and persons having ownership interests in the property subject to taxation may file separate appeals or joint appeals at the election of one or more of the taxpayers. It is the intent of this provision that all owners of a single item of personal property or tract or parcel of real property be allowed to join in one appeal and also that any taxpayer be allowed to include in one appeal all objections timely presented regardless of the fact that the listing or valuation of more than one item of personal property or tract or parcel of real property is the subject of the appeal.
- (2) When an appeal is filed, the Property Tax Commission shall provide a hearing before representatives of the Commission or the full Commission as specified in this subdivision.

- a. Hearing by Commission Representatives. – The Commission may authorize one or more members of the Commission or employees of the Department of Revenue to hear an appeal, to make examinations and investigations, to have made from stenographic notes a full and complete record of the evidence offered at the hearing, and to make recommended findings of fact and conclusions of law. Should the Commission elect to follow this procedure, it shall fix the time and place at which its representatives will hear the appeal and, at least 10 days before the hearing, give written notice of the hearing to the appellant and to the clerk of the board of commissioners of the county from which the appeal is taken. At the hearing the Commission's representatives shall hear all evidence and affidavits offered by the appellant and appellee county and may exercise the authority granted by subsection (d), below, to obtain information pertinent to decision of the appeal. The representatives conducting the hearing shall submit to the Commission and to the appellant and appellee their recommended findings of fact and conclusions of law. Upon the request of any party, the representatives conducting the hearing shall also submit to the Commission and to the appellant and appellee a full record of the proceeding. The cost of providing the full record of the proceeding shall be borne by the party requesting it, unless the Commission determines for good cause that the cost should be borne by the Commission. The Commission shall review the record, the recommended findings of fact and conclusions of law, and any written arguments that may be submitted to the Commission by the appellant or appellee within 15 days following the date on which the findings and conclusions were submitted to the parties and shall take one of the following actions:

1. Accept the recommended findings of fact and conclusions of law and issue an appropriate order as provided in subdivision (b)(3), below.
 2. Make new findings of fact or conclusions of law based upon the materials submitted by the Commission's representatives and issue an appropriate order as provided in subdivision (b)(3), below.
 3. Rehear the appeal under the procedure provided in subdivision (b)(2)b, below, with respect to any portion of the record or recommended findings of fact or conclusions of law.
- b. Hearing by Full Commission. – Should the Commission elect not to employ the procedure provided in subdivision (b)(2)a, above, it shall fix a time and place at which the Commission shall hear the appeal and, at least 10 days before the hearing, give written notice of the hearing to the appellant and to the clerk of the board of commissioners of the county from which the appeal is taken. At the hearing the Commission shall hear all evidence and affidavits offered by the appellant and appellee county and may exercise the authority granted by subsection (d), below, to obtain information pertinent to decision of the appeal. The Commission shall make findings of fact and conclusions of law and issue an appropriate order as provided in subdivision (b)(3), below.
- (3) On the basis of the findings of fact and conclusions of law made after any hearing provided for by this subsection (b), the Property Tax Commission shall enter an order (incorporating the findings and conclusions) reducing, increasing, or confirming the valuation or valuations appealed or listing or removing from the tax lists the property whose listing has been appealed. A certified copy of the order shall be delivered to the appellant and to the clerk of the board of commissioners of the county from which the appeal was taken, and the abstracts and tax records of the county shall be corrected to reflect the Commission's order.
- (4) Interest on Overpayments. – When an order of the Property Tax Commission reduces the valuation of property or removes the property from the tax lists and, based on the order, the taxpayer has paid more tax than is due on the property, the taxpayer is entitled to receive interest on the overpayment in accordance with this subdivision. An overpayment of tax bears interest at the rate set under G.S. 105-241.21 from the date the interest begins to accrue until a refund is paid. Interest accrues from the later of the date the tax was paid and the date the tax would have been considered delinquent under G.S. 105-360. A refund is considered paid on a date determined by the governing body of the taxing unit that is no sooner than five days after a refund check is mailed.
- (c) Appeals from Adoption of Schedules, Standards, and Rules. – It shall be the duty of the Property Tax Commission to hear and to adjudicate appeals from orders of boards of county commissioners adopting schedules of values, standards, and rules under the provisions of G.S. 105-317 as prescribed in this subsection (c), and the adoption of such schedules, standards, and rules shall not be subject to appeal under any other provision of this Subchapter.

- (1) A property owner of the county who, either separately or in conjunction with other property owners of the county, asserts that the schedules of values, standards, and rules adopted by order of the board of county commissioners do not meet the true value or present-use value appraisal standards established by G.S. 105-283 and G.S. 105-277.2(5), respectively, may appeal the order to the Property Tax Commission within 30 days of the date when the order adopting the schedules, standards, and rules was first published, as required by G.S. 105-317(c).
- (2) Upon such an appeal the Property Tax Commission shall proceed to hear the appeal in accordance with the procedures provided in subdivisions (b)(1) and (b)(2), above, and in scheduling the hearing upon such an appeal, the Commission shall give it priority over appeals that may be pending before the Commission under the provisions of subsection (b), above. The decision of the Commission upon such an appeal shall be embodied in an order as provided in subdivision (c)(3), below.
- (3) On the basis of the findings of fact and conclusions of law made after any hearing provided for by this subsection (c), the Property Tax Commission shall enter an order (incorporating the findings and conclusions):
 - a. Modifying or confirming the order adopting the schedules, standards, and rules challenged, or
 - b. Requiring the board of county commissioners to revise or modify its order of adoption in accordance with the instructions of the Commission and to present the order as thus revised or modified for approval by the Commission under rules and regulations prescribed by the Commission.

(d) Witnesses and Documents. – Upon its own motion or upon the request of any party to an appeal, the Property Tax Commission, or any member of the Commission, or any employee of the Department of Revenue so authorized by the Commission shall examine witnesses under oath administered by any member of the Commission or any employee of the Department so authorized by the Commission, and examine the documents of any person if there is ground for believing that information contained in such documents is pertinent to the decision of any appeal pending before the Commission, regardless of whether such person is a party to the proceeding before the Commission. Witnesses and documents examined under the authority of this subsection (d) shall be examined only after service of a subpoena as provided in subdivision (d)(1), below. The travel expenses of any witness subpoenaed and the cost of serving any subpoena shall be borne by the party that requested the subpoena.

- (1) The Property Tax Commission, a member of the Commission, or any employee of the Department of Revenue authorized by the Commission, is authorized and empowered to subpoena witnesses and to subpoena documents upon a subpoena to be signed by the chairman of the Commission directed to the witness or witnesses or to the person or persons having custody of the documents sought. Subpoenas issued under this subdivision may be served by any officer authorized to serve subpoenas.
- (2) Any person who shall willfully fail or refuse to appear, to produce subpoenaed documents in response to a subpoena, or to testify as provided in this subsection (d) shall be guilty of a Class 1 misdemeanor.
- (3) Upon a motion, the Property Tax Commission, or a member of the Commission may quash a subpoena if, after a hearing, the Commission finds any of the following:

- a. The subpoena requires the production of evidence that does not relate to a matter in issue.
- b. The subpoena fails to describe with sufficient particularity the evidence required to be produced.
- c. The subpoena is subject to being quashed for any other reason sufficient in law.

(d1) Hearing on Motion to Quash Subpoena; Appeal. – A hearing on a motion to quash a subpoena pursuant to subdivision (d)(3) of this section shall be heard at least 10 days prior to the hearing for which the subpoena was issued. The denial of a motion to quash a subpoena is subject to immediate judicial review in the Superior Court of Wake County or in the superior court of the county where the person subject to the subpoena resides.

(d2) Business Entity Representation. – If a property owner is a business entity, the business entity may represent itself using a nonattorney representative who is one or more of the following of the business entity: (i) officer, (ii) manager or member-manager, if the business entity is a limited liability company, (iii) employee whose income is reported on IRS Form W-2, if the business entity authorizes the representation in writing, or (iv) owner of the business entity, if the business entity authorizes the representation in writing and if the owner's interest in the business entity is at least twenty-five percent (25%). Authority for and prior notice of nonattorney representation shall be made in writing, under penalty of perjury, to the Commission on a form provided by the Commission.

(e) Time Limits for Appeals. – A notice of appeal from an order of a board of county commissioners, other than an order adopting a uniform schedule of values, or from a board of equalization and review shall be filed with the Property Tax Commission within 30 days after the date the board mailed a notice of its decision to the property owner. A notice of appeal from an order adopting a schedule of values shall be filed within the time set in subsection (c).

(f) Notice of Appeal. – A notice of appeal filed with the Property Tax Commission shall be in writing and shall state the grounds for the appeal. A property owner who files a notice of appeal shall send a copy of the notice to the appropriate county assessor.

(g) What Constitutes Filing. – A notice of appeal submitted to the Property Tax Commission by a means other than United States mail is considered to be filed on the date it is received in the office of the Commission. A notice of appeal submitted to the Property Tax Commission by United States mail is considered to be filed on the date shown on the postmark stamped by the United States Postal Service. If an appeal submitted by United States mail is not postmarked or the postmark does not show the date of mailing, the appeal is considered to be filed on the date it is received in the office of the Commission. A property owner who files an appeal with the Commission has the burden of proving that the appeal is timely. (1939, c. 310, ss. 202, 1107, 1109; 1955, c. 1350, s. 10; 1967, c. 1196, s. 3; 1969, c. 7, ss. 1, 2; 1971, c. 806, s. 1; 1973, c. 476, s. 193; 1987, c. 295, ss. 3, 9; c. 680, ss. 4, 5; 1989 (Reg. Sess., 1990), c. 1005, ss. 1, 2; 1991 (Reg. Sess., 1992), c. 1016, s. 1; 1993, c. 539, s. 713; 1994, Ex. Sess., c. 24, s. 14(c); 1997-205, s. 1; 2007-251, ss. 3, 4; 2007-491, s. 44(1)a; 2014-120, s. 7(b).)