

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SENATE BILL 1432
RATIFIED BILL**

**AN ACT TO ALLOW FOR A MEANINGFUL CHALLENGE TO AN
ADMINISTRATIVE SUBPOENA.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-4(h) reads as rewritten:

"§ 96-4. Administration.

.. (h) Oaths and Witnesses. – In the discharge of the duties imposed by this Chapter, the chairman and any duly authorized representative or member of the Commission shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this Chapter. Upon a motion, the chairman and any duly authorized representative or member of the Commission may quash a subpoena if, after a hearing, the Commission finds any of the following:

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

SECTION 2. G.S. 96-4 is amended by adding a new subsection to read:

"(h1) Hearing on Motion to Quash Subpoena; Appeal. – A hearing on a motion to quash a subpoena pursuant to subsection (h) 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."

SECTION 3. G.S. 105-290(d) reads as rewritten:

"§ 105-290. Appeals to Property Tax 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."

SECTION 4. G.S. 105-290 is amended by adding a new subsection to read:

"(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."

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2007.

Beverly E. Perdue
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____, m. this _____ day of _____, 2007