

Article 3A.

Other Administrative Hearings.

**§ 150B-38. Scope; hearing required; notice; venue.**

- (a) The provisions of this Article shall apply to:
- (1) Occupational licensing agencies.
  - (2) The State Banking Commission, the Commissioner of Banks, and the Credit Union Division of the Department of Commerce.
  - (3) The Department of Insurance and the Commissioner of Insurance.
  - (4) The State Chief Information Officer in the administration of the provisions of Article 15 of Chapter 143B of the General Statutes.
  - (5) The North Carolina State Building Code Council.
  - (5a) The Office of the State Fire Marshal and the State Fire Marshal.
  - (6) Repealed by Session Laws 2018-146, s. 4.4(b), effective December 27, 2018.
- (b) Prior to any agency action in a contested case, the agency shall give the parties in the case an opportunity for a hearing without undue delay and notice not less than 15 days before the hearing. Notice to the parties shall include all of the following:
- (1) A statement of the date, hour, place, and nature of the hearing.
  - (2) A reference to the particular sections of the statutes and rules involved.
  - (3) A short and plain statement of the facts alleged.
- (c) Notice shall be given by one of the methods for service of process under G.S. 1A-1, Rule 4(j) or Rule 4(j3). If given by registered or certified mail, by signature confirmation as provided by the United States Postal Service, or by designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, notice shall be deemed to have been given on the delivery date appearing on the return receipt, copy of proof of delivery provided by the United States Postal Service, or delivery receipt. If notice cannot be given by one of the methods for service of process under G.S. 1A-1, Rule 4(j) or Rule 4(j3), then notice shall be given in the manner provided in G.S. 1A-1, Rule 4(j1).
- (d) A party that has been served with a notice of hearing may file a written response with the agency. If a written response is filed, a copy of the response shall be mailed to all other parties not less than 10 days before the date set for the hearing.
- (e) All hearings conducted under this Article shall be open to the public. A hearing conducted by the agency shall be held in the county where the agency maintains its principal office. A hearing conducted for the agency by an administrative law judge requested under G.S. 150B-40 shall be held in a county in this State where any person whose property or rights are the subject matter of the hearing resides. If a different venue would promote the ends of justice or better serve the convenience of witnesses, the agency or the administrative law judge may designate another county. A person whose property or rights are the subject matter of the hearing waives an objection to venue by proceeding in the hearing.
- (f) Any person may petition to become a party by filing with the agency or hearing officer a motion to intervene in the manner provided by G.S. 1A-1, Rule 24. In addition, any person interested in a contested case under this Article may intervene and participate to the extent deemed appropriate by the agency hearing officer.
- (g) When contested cases involving a common question of law or fact or multiple proceedings involving the same or related parties are pending before an agency, the agency may order a joint hearing of any matters at issue in the cases, order the cases consolidated, or make other orders to reduce costs or delay in the proceedings.
- (h) Every agency shall adopt rules governing the conduct of hearings that are consistent with the provisions of this Article.

(i) Repealed by Session Laws 2021-88, s. 16(c), effective July 22, 2021. (1985, c. 746, s. 1; 1985 (Reg. Sess., 1986), c. 1022, s. 6(3); 1989, c. 76, s. 30; c. 751, s. 7(45); 1991 (Reg. Sess., 1992), c. 959, s. 76; 1999-434, s. 17; 2001-141, s. 8; 2001-193, s. 12; 2001-487, s. 21(h); 2010-169, s. 7; 2011-332, s. 2.3; 2015-241, ss. 7A.3, 7A.4(ff); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 4.4(b); 2021-88, s. 16(c); 2023-151, s. 12.6.)