

House Bill 598

By: Representatives Burns of the 157th, McCall of the 30th, Roberts of the 154th, England of the 108th, and James of the 135th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 2-2-9.1 of the Official Code of Georgia Annotated, relating to
2 administrative authority of the Commissioner of Agriculture, hearings for individuals
3 adversely affected by decisions of the Commissioner, penalties, initial and final decisions,
4 and judicial review, so as to change certain provisions relating to initial and final decisions;
5 to change certain provisions relating to reconsideration of decisions; to provide for timely
6 judicial review; to provide for affirmation of decisions by operation of law in certain cases;
7 to provide an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 2-2-9.1 of the Official Code of Georgia Annotated, relating to administrative
11 authority of the Commissioner of Agriculture, hearings for individuals adversely affected by
12 decisions of the Commissioner, penalties, initial and final decisions, and judicial review, is
13 amended by revising subsections (l), (m), and (p) as follows:

14 "(l)(1) The final decision shall be in writing, and if an initial decision is modified, the
15 Commissioner shall give his or her reasons therefor in the form of findings of fact and
16 conclusions of law, separately stated, along with the effective date of the final decision.
17 If the Commissioner does not issue a final decision within 30 days after the filing of an
18 application for final agency review, then, notwithstanding any extension of time to render
19 a decision under paragraph (4) of this subsection, the initial decision shall be deemed
20 final without need of further proceedings. ~~Further, once the initial decision is final, and~~
21 ~~a party's right to judicial review shall be extinguished.~~

22 (2) ~~The Commissioner's decision must be rendered not later than 30 days following the~~
23 ~~date the initial decision was issued~~ Reserved.

24 (3) The Commissioner may modify sanctions after review of an initial decision on
25 appeal, stating the sanctions in the final decision. The Commissioner shall not have to
26 make separate findings of fact to justify modified sanctions.

1 (4) The period of decision may be extended due to complexity of issues or volume of
 2 record materials. All parties involved shall be notified of any extension. A decision shall
 3 be rendered as soon as practicable, subject to the provisions of paragraph (1) of this
 4 subsection.

5 (5) The Commissioner shall serve on the:

- 6 (A) Opposing party;
- 7 (B) Opposing party's counsel;
- 8 (C) Agency counsel; and
- 9 (D) Original hearing officer

10 any resulting decision or notify the above parties if there is no change to the initial
 11 decision along with a statement of rights on appeal to the opposing party and counsel
 12 within 30 days of any such decision.

13 ~~(m)(1) A party, or the Commissioner on his or her own motion, may seek~~ There shall be
 14 no reconsideration by the Commissioner of a final agency decision.

15 ~~(2) A party's written request for reconsideration must be submitted to the Commissioner~~
 16 ~~within ten days of service of the final decision. The request shall include a short and plain~~
 17 ~~statement of:~~

- 18 ~~(A) All matters alleged to have been erroneously decided; and~~
- 19 ~~(B) Any newly discovered factual matters and the reasons why any matters were not~~
 20 ~~raised previously.~~

21 ~~(3) Opposing parties may submit statements in response within 20 days of service of the~~
 22 ~~request of the consideration.~~

23 ~~(4) All requests for reconsideration and statements in opposition shall be served on all~~
 24 ~~parties and the Commissioner.~~

25 ~~(5) If the final agency decision is modified, the Commissioner shall give his or her~~
 26 ~~reasons therefor in the form of findings of fact and conclusions of law along with the~~
 27 ~~effective date of the decision.~~

28 ~~(6) The Commissioner's decision shall be rendered within 30 days following the latest~~
 29 ~~filing deadline."~~

30 "(p)(1) If a judicial review of the Commissioner's final decision is sought in accordance
 31 with Code Section 50-13-19, and the matter involves the impoundment of equines under
 32 Chapter 13 of Title 4, the 'Georgia Humane Care for Equines Act,' the Commissioner
 33 shall, along with his or her answer to the petition, include a statement of the costs
 34 incurred in the impoundment and care of the impounded animal or animals and an
 35 estimate of the future costs expected to be incurred in the care of the impounded animal
 36 or animals. The judge of the superior court may then require the petitioner to submit a
 37 surety bond to the court in an amount necessary to provide for the reasonable costs of

1 care for the impounded animal or animals. In lieu of a surety bond, the court may accept
 2 a cash bond or property bond, which shall in all respects be subject to the same claims
 3 and actions as would exist against a surety bond.

4 (2) Upon the entering of a final adverse decision against an aggrieved party by the
 5 superior court, the Commissioner shall within 15 days deliver to the court and to the
 6 aggrieved party a statement of the costs incurred in the impoundment and care of the
 7 impounded animal or animals. The aggrieved party shall then render payment of such
 8 costs to the Commissioner within 15 days after the service of the statement of the costs.
 9 If the aggrieved party fails to render payment to the Commissioner within the time period
 10 required in this paragraph, the Commissioner may commence and maintain an action
 11 against the principal and surety on the bond of the aggrieved party as in any civil action.

12 (3)(A) If judicial review of the Commissioner's final decision is sought in accordance
 13 with Code Section 50-13-19, then the superior court in which the petition for review
 14 was filed shall:

15 (i) Hear the case within 90 days after the date such petition was filed with the court,
 16 unless a hearing scheduled to be held within such period was continued to a later date
 17 certain by order of the court; and

18 (ii) Enter an order disposing of the issues presented for review within 30 days after
 19 the date of the hearing.

20 (B) If either of the requirements of subparagraph (A) of this paragraph is not met, the
 21 final agency decision shall be affirmed by operation of law."

22 SECTION 2.

23 This Act shall become effective upon its approval by the Governor or upon its becoming law
 24 without such approval.

25 SECTION 3.

26 All laws and parts of laws in conflict with this Act are repealed.