

# HB226 INTRODUCED



1 HB226  
2 D4WSTHN-1  
3 By Representative Almond  
4 RFD: Judiciary  
5 First Read: 22-Feb-24



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SYNOPSIS:

Under existing law, a party aggrieved by a final decision of a municipal zoning board of adjustment may appeal the decision to the circuit court by filing a written notice of appeal with the board within 15 days of the final decision. The law does not specify procedurally when the appeal is required to be filed in the circuit court or other matters that concern the appeal.

This bill would further provide for the procedures for an aggrieved party to file an appeal of the final decision of a municipal zoning board of adjustment in the circuit court.

This bill would require a notice of appeal to be filed within 15 days after the final decision to the board and for an appeal to circuit court to be filed within 30 days after the final decision of the board.

This bill would also provide for the decision of the board to remain in effect during an appeal, unless the circuit court grants a stay.

A BILL  
TO BE ENTITLED



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AN ACT

29  
30  
31 Relating to municipal zoning boards of adjustment; to  
32 amend Section 11-52-81 of the Code of Alabama 1975, to further  
33 provide for the appeal of final decisions of zoning boards of  
34 adjustment to the circuit court.

35 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

36 Section 1. Section 11-52-81 of the Code of Alabama  
37 1975, is amended to read as follows:

38 "§11-52-81

39 (a) Any party aggrieved by any final ~~judgment or~~  
40 decision of ~~such a~~ board of zoning adjustment may ~~within 15~~  
41 ~~days thereafter appeal therefrom to the circuit court by~~  
42 ~~filing with such board a written notice of appeal specifying~~  
43 ~~the judgment or decision from which the appeal is taken. In~~  
44 ~~case of such appeal such board shall cause a transcript of the~~  
45 ~~proceedings in the action to be certified to the court to~~  
46 ~~which the appeal is taken, and the action in such court shall~~  
47 ~~be tried de novo~~ appeal the final decision of the board by  
48 filing an appeal in the circuit court in the county where the  
49 board convenes. The aggrieved party shall first file a written  
50 notice of appeal with the board within 15 days after the final  
51 decision, specifying the decision from which the appeal is  
52 taken. Thereafter, the aggrieved party must file the appeal  
53 with the proper circuit court within 30 days of the final  
54 decision of the board and shall also serve the board with the  
55 appeal at the office of the city clerk. After an appeal has  
56 been filed in the circuit court, the board shall submit to the



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57 circuit court a certified copy of the minutes of the meeting  
58 of the board regarding the appealed case along with copies of  
59 any documents submitted to the board during the meeting  
60 concerning the appealed case. Minutes and other documents  
61 shall be submitted within 45 days after the board is served  
62 with the appeal, unless extended by order of the court. The  
63 action in the circuit court shall be tried de novo and the  
64 circuit court shall sit as trier of both fact and law.

65 (b) The decision of the board shall remain in effect  
66 during the pendency of the appeal unless the circuit court  
67 grants a stay. In determining whether to grant a stay, the  
68 circuit court shall consider the appellant's likelihood of  
69 success on the merits, whether there may be irreparable injury  
70 absent a stay, whether the stay will substantially injure any  
71 party to the proceeding, and whether a stay is in the public's  
72 interest."

73 Section 2. This act shall become effective on July 1,  
74 2024.