

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 764
HOUSE BILL 612

AN ACT TO REVISE THE STATUTES RELATING TO THE GAME COMMISSION
OF CURRITUCK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. This act amends the legislation relating to the Game Commission of Currituck County contained in Session Laws 1957, Chapter 1436, as amended by Session Laws 1971, Chapter 1178, Session Laws 1973, Chapter 747, Session Laws 1975, Chapter 398, Session Laws 1977, Chapter 190, and Session Laws 1981, Chapter 622.

Sec. 2. The fourth sentence of Section 4 of Session Laws 1957, Chapter 1436, as amended, is rewritten to read as follows: "The clerk shall be required to keep a complete and permanent record of all licenses issued by the Game Commission in the office of the Game Commission, and this record shall be open to inspection upon reasonable notice."

Sec. 3. The proviso in the introductory sentence of Section 10 of Session Laws 1957, Chapter 1436, as amended, is rewritten to read as follows: "provided further that applications filed later than August 1 shall be given consideration at subsequent meetings of the Game Commission."

Sec. 4. The first sentence of subsection (b) of Section 10 of Session Laws 1957, Chapter 1436, as amended, is rewritten to read as follows: "Application must be filed on or before August 1 of each year to insure timely consideration."

Sec. 5. The first sentence of subsection (a) of Section 29 of Session Laws 1957, Chapter 1436, as amended, is rewritten to read as follows: "All applications for blind licenses shall be made in writing and filed with the clerk to the Game Commission between July 15 and August 1 of each year."

Sec. 6. Subsection (d) of Section 29 of Session Laws 1957, Chapter 1436, as amended, is amended to add the following sentences at the end of the subsection: "In addition, within one week following the hearing, the clerk to the Game Commission shall mail a notice of the decision of the Game Commission to:

(1) Each party who appeared at the hearing on the issue in question; and

(2) Each person who, according to the records of the Game Commission, will be directly affected by the decision of the Game Commission at the hearing. Whether this notice is mailed or received, however, it is the responsibility of each party to the hearing to determine the decision of the Game Commission affecting him."

Sec. 7. Section 29 of Session Laws 1957, Chapter 1436, as amended, is amended by deleting subsection (e) and substituting the following new subsections:

"(e) Any party to the hearing provided by subsection (c) who is aggrieved by the decision of the Game Commission may appeal the decision to the District Court Division of the General Court of Justice sitting in Currituck County, where the matter shall be heard *de novo* by a district court judge sitting without a jury. The aggrieved party shall file written notice of his appeal with the office of the Clerk of Superior Court of Currituck County explicitly stating the grounds for his objection to the decision of the Game Commission and the relief sought. The aggrieved party shall style his notice of appeal in a manner to identify the issue to be litigated, such as 'In the Matter of a License for a Stationary Bush Blind Located at (give location).' Filing notice of appeal shall suspend the decision taken by the Game Commission pending resolution of the question by the district court, except that right to appeal is barred by a failure:

(1) To file the notice of appeal with the clerk of superior court by the third Wednesday in September; or

(2) To perfect the appeal in accordance with subdivision (e1) within 10 days after filing the notice of appeal.

(e1) After filing notice of appeal, the aggrieved party shall perfect the appeal by paying the costs of the appeal to the Clerk of Superior Court of Currituck County and by serving a copy of the notice of appeal upon the clerk to the Game Commission and upon each person who is shown by the records of the Game Commission to have been entitled to be mailed a notice of the decision of the Game Commission with respect to the issue in question under the terms of subsection (d). The clerk to the Game Commission shall upon request furnish the appealing party the names and addresses of the persons entitled to the notice. Service shall be in accordance with G.S. 1A-1, Rule 4.

(e2) Any person served with the notice of appeal under subsection (e1) may become a party in the appeal proceeding before the district court judge by notifying the Clerk of Superior Court of Currituck County within seven days after service of the notice of appeal upon him. Any other person aggrieved by the decision of the Game Commission may petition to become a party by filing a motion to intervene as provided in G.S. 1A-1, Rule 24.

(e3) The responsible judicial official in the First Judicial District shall schedule the hearing upon an appeal as expeditiously as possible after the appeal is perfected, but it may not be scheduled until the fourth Wednesday in September or, if later, seven days after service of the notice of appeal upon the clerk to the Game Commission and all other persons required to be served with notice of appeal under subsection (e1). If any aggrieved party fails to appear at any scheduled appeal proceeding, the party's appeal shall be dismissed.

(e4) Upon the appeal, the Game Commission shall be a party and shall be represented by one or more of the members of the Game Commission. In addition, the clerk to the Game Commission and its attorney, surveyor, and others who have acted for or on behalf of the Game Commission may testify to facts in issue upon the appeal of which they have knowledge and to the Game Commission's findings and criteria that apply to the matter in issue. The Game Commission shall furnish the court with relevant records and exhibits bearing upon the matter in issue and the decision it made.

(e5) In determining whether to grant or deny a blind license to any applicant, to modify the terms of a license, or otherwise to decide any matter in issue upon appeal, the district court judge shall follow the criteria:

(1) In this act; and

(2) Established by regulations and guidelines of the Game Commission, to the extent that they are reasonable and in conformity with the policies of this act. After the district court judge's decision, he may implement his ruling with appropriate orders to the Game Commission concerning issuance of the blind license, rejection or modification of the application, and any other matters in issue upon the appeal."

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.