

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 461
SENATE BILL 400

AN ACT TO PROVIDE THAT THE DEPARTMENT OF CULTURAL RESOURCES
SHALL ISSUE ARCHAEOLOGICAL PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 70-13 reads as rewritten:

"§ 70-13. Archaeological investigations.

(a) Any person may apply to the Department of ~~Administration~~Cultural Resources for a permit to conduct archaeological investigations on State lands. The application shall contain information the Department of ~~Administration~~Cultural Resources, in consultation with the Department of ~~Cultural Resources~~Administration, deems necessary, including the time, scope, location and specific purpose of the proposed work.

(b) A permit shall be issued pursuant to an application under subsection (a) of this section if, after any notifications and consultations required by subsection (d) of this section, the Department of ~~Administration~~Cultural Resources, in consultation with the Department of ~~Cultural Resources~~Administration, finds that:

- (1) The applicant is qualified to carry out the permitted activity;
- (2) The proposed activity is undertaken for the purpose of furthering archaeological knowledge in the public interest;
- (3) The currently available technology and the technology the applicant proposes to use are such that the significant information contained in the archaeological resource can be retrieved;
- (4) The funds and the time the applicant proposes to commit are such that the significant information contained in the archaeological resources can be retrieved;
- (5) The archaeological resources which are collected, excavated or removed from State lands and associated records and data will remain the property of the State of North Carolina and the resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution;
- (6) The activity pursuant to the permit is not inconsistent with any management plan applicable to the State lands concerned; and
- (7) The applicant shall bear the financial responsibility for the reinterment of any human burials or human skeletal remains excavated or removed as a result of the permitted activities.

(c) A permit may contain any terms, conditions or limitations the Department of ~~Administration, Cultural Resources,~~ in consultation with the Department of ~~Cultural Resources, Administration,~~ deems necessary to achieve the intent of this Article. A permit shall identify the person responsible for carrying out the archaeological investigation.

(d) If a permit issued under G.S. 70-13(a) may result in harm to, or destruction of, any religious or cultural site, as determined by the Department of ~~Administration, Cultural Resources,~~ in consultation with the Department of ~~Cultural Resources, Administration,~~ before issuing such permit, the Department of ~~Administration, Cultural Resources,~~ in consultation with the Department of ~~Cultural Resources, Administration,~~ shall notify and consult with, insofar as possible, a local representative of an appropriate religious or cultural group. If the religious or cultural site pertains to Native Americans, the Department of ~~Administration, Cultural Resources,~~ in consultation with the Department of ~~Cultural Resources, Administration,~~ shall notify the Executive Director of the North Carolina Commission of Indian Affairs. The Executive Director of the North Carolina Commission of Indian Affairs shall notify and consult with the Eastern Band of Cherokee or other appropriate tribal group or community. Such notification shall include, but not be limited to, the following:

- (1) The location and schedule of the forthcoming investigation;
- (2) Background data concerning the nature of the study; and
- (3) The purpose of the investigation and the expected results.

(e) A permit issued under G.S. 70-13 may be suspended by the Department of ~~Administration, Cultural Resources,~~ in consultation with the Department of ~~Cultural Resources, Administration,~~ upon the determination that the permit holder has violated any provision of G.S. 70-15(a) or G.S. 70-15(b). A permit may be revoked by the Department of ~~Administration, Cultural Resources,~~ in consultation with the Department of ~~Cultural Resources, Administration,~~ upon assessment of a civil penalty under G.S. 70-16 against the permit holder or upon the permit holder's conviction under G.S. 70-15."

Sec. 2. Chapter 70 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 4.

"North Carolina Archaeological Record Program.

"§ 70-46. Short title.

This Article shall be known as "The North Carolina Archaeological Record Program".

"§ 70-47. Findings and purpose.

(a) The General Assembly finds that archaeological resources on private lands constitute the majority of the irreplaceable historic and prehistoric resources of the State. These resources are increasingly endangered and existing State laws do not provide private landowners with the means adequately to preserve these resources. There is currently no provision for assisting and giving recognition to a private landowner who wishes to preserve the archaeological resources located on the owner's property.

(b) The purpose of this Article is to preserve and protect for the present and future benefit of the people of North Carolina through a program of voluntary site enrollment the prehistoric and historic archaeological resources that are on private lands.

"§ 70-48. Definitions.

As used in this Article, unless the context clearly indicates otherwise:

- (1) 'Archaeological investigation' means any surface collection, subsurface tests, excavation, or other activity that results in the disturbance or removal of archaeological resources.
- (2) 'Archaeological resource' means any material remains of past human life or activities which are at least 50 years old and which are of archaeological interest, including pieces of pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, rock paintings, rock carvings, intaglios, graves or human skeletal materials. Paleontological specimens are not to be considered archaeological resources unless found in an archaeological context.
- (3) 'Program' means the North Carolina Archaeological Record Program established under this Article.
- (4) 'Record' means the North Carolina Archaeological Record established under this Article.
- (5) 'State Archaeologist' means the head of the Office of State Archaeology, Division of Archives and History, Department of Cultural Resources.

"§ 70-49. The North Carolina Archaeological Record Program.

(a) The Department of Cultural Resources, Division of Archives and History shall establish the North Carolina Archaeological Record Program. The purpose of the Program shall be to assist private owners of archaeological resources in the preservation and protection of those resources. Participation in the Program shall be voluntary.

(b) As part of the Program, the Department shall establish and maintain the North Carolina Archaeological Record. The North Carolina Archaeological Record shall include a list of the archaeological resources owned privately by each person participating in the Program. No archaeological resource shall be enrolled in the Record without the permission of its owner.

(c) An archaeological resource that is enrolled in the North Carolina Archaeological Record shall be removed from the Record at the written request of either the State Archaeologist or the owner of the archaeological resource. The archaeological resource shall be removed from the Record 30 days after the receipt by the Department of Cultural Resources of the written request.

"§ 70-50. Site Steward Program.

The Department of Cultural Resources may create and maintain a volunteer program for purposes of monitoring the condition of archaeological resources listed in the Record. This program shall be known as the Site Steward Program and will be administered through the Office of State Archaeology in cooperation with local and statewide archaeological societies and groups.

"§ 70-51. Archaeological investigations.

(a) Any person wanting to conduct an archaeological investigation on private land that is the site of an archaeological resource enrolled in the Record shall apply to the Department of Cultural Resources for a permit to conduct such an investigation. The application shall contain information the Department of Cultural Resources deems necessary, including the time, scope, location and specific purpose of the proposed work.

(b) A permit shall be issued pursuant to this section if, after any notifications and consultations required by subsection (d) of this section, the Department of Cultural Resources finds that:

- (1) The applicant is qualified to carry out the permitted activity;
- (2) The proposed activity is undertaken for the purpose of furthering archaeological knowledge in the public interest;
- (3) The currently available technology and the technology the applicant proposes to use are such that the significant information contained in the archaeological resource can be retrieved;
- (4) The funds and the time the applicant proposes to commit are such that the significant information contained in the archaeological resources can be retrieved;
- (5) The archaeological resources that are enrolled in the Record and that are collected, excavated or removed from the privately owned site and the associated records and data will remain the property of the private owner of the archaeological resource;
- (6) Copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution;
- (7) The applicant shall bear the financial responsibility for the reinterment of any human burials or human skeletal remains excavated or removed as a result of the permitted activities; and
- (8) The applicant has obtained the permission of the owner of the archaeological resource to conduct the archaeological investigation.

(c) A permit may contain any terms, conditions or limitations the Department of Cultural Resources deems necessary to achieve the intent of this Article. A permit shall identify the person responsible for carrying out the archaeological investigation.

(d) If the Department of Cultural Resources determines that a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, the Department of Cultural Resources, before issuing the permit, shall notify and consult with, insofar as possible, a local representative of an appropriate religious or cultural group. If the religious or cultural site pertains to Native Americans, the Department of Cultural Resources shall notify the Executive Director of the North Carolina Commission of Indian Affairs. The Executive Director of the North Carolina Commission of Indian Affairs shall notify and consult with the Eastern Band of Cherokee or other appropriate tribal group or community. Such notification shall include, but not be limited to, the following:

- (1) The location and schedule of the forthcoming investigation;
- (2) Background data concerning the nature of the study; and
- (3) The purpose of the investigation and the expected results.

(e) A permit issued under this section may be suspended by the Department of Cultural Resources upon the determination that the permit holder has violated any condition of the permit.

"§ 70-52. Rule-making authority.

The Department of Cultural Resources may adopt rules to implement this Article."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives