

**CHAPTER 427**

Session Laws -- 1987

H.B. 704

**CHAPTER 427****AN ACT TO CLARIFY THE AUTHORITY OF THE OFFICERS OF  
THE POLICE DEPARTMENT OF THE EASTERN BAND OF  
THE CHEROKEE.***The General Assembly of North Carolina enacts:*

**Section 1.** Article 13 of Chapter 160A of the North Carolina General Statutes with the exceptions contained herein, is hereby declared to be applicable to the Eastern Band of Cherokee Indians.

**Sec. 2.** For the purposes of the application of Article 13 of Chapter 160A of the North Carolina General Statutes, the following terms contained therein shall be construed as follows:

(a) "City" shall be construed to mean the Eastern Band of Cherokee Indians.

(b) "Council" or "governing body" shall be construed to mean the Tribal Council of the Eastern Band of Cherokee Indians.

(c) "City clerk" shall be construed to mean the clerk of the Tribal Council of the Eastern Band of the Cherokee Indians.

(d) "Corporate limits of the city" shall be construed to mean the boundaries of the trust lands of the Eastern Band of the Cherokee Indians wherever located within the State of North Carolina.

(e) "Law enforcement agency" or "local law enforcement agency" shall be construed to include the police department of the Eastern Band of the Cherokee Indians.

**Sec. 3.** Notwithstanding the provisions of G.S. 160A-286, the extraterritorial jurisdiction of the policeman of the police department of the Eastern Band of Cherokee Indians shall be:

(a) on all property owned by or leased to the Eastern Band of Cherokee Indians located within the trust lands of the Eastern Band of the Cherokee Indians.

(b) during the immediate and continuous flight of an offender in accordance with G.S. 15A-402(d).

**Sec. 4.** (a) Any person appointed or employed as Chief of Police, policeman, or auxiliary policeman shall, prior to the exercise of his authority pursuant to Article 13 of Chapter 160A of the North Carolina General Statutes, comply with the provisions of Chapter 17C of the North Carolina General Statutes and any rules or regulations adopted pursuant to the authority of Chapter 17C of North Carolina. The Courts of the State of North Carolina shall have the jurisdiction pursuant to G.S. 17C-11 to enjoin the police department of the Eastern Band of Cherokee Indians or any officer employed or appointed by said department from exercising any or all of the authority under color of State law conferred by Article 13 of Chapter

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160A of the North Carolina general Statutes if any such officer of said department fails to meet the required standards established pursuant to Chapter 17C of the General Statutes of North Carolina.

(b) Service as chief of police, policeman, or auxiliary policeman pursuant to Article 13 of Chapter 160A of the North Carolina General Statutes with the police department of the Eastern Band of Cherokee Indians shall constitute service as a "criminal justice officer" as defined in G.S. 17C-2(c).

**Sec. 5.** Any police officer employed or appointed as chief of police, policeman, or auxiliary policeman of the police department of the Eastern Band of Cherokee Indians may be enjoined from exercising his authority under color of state law pursuant to Article 13 of Chapter 160A of the North Carolina General Statutes for the reasons set forth in G.S. 128-16 and pursuant to the provisions of Article 2 of Chapter 128 of the North Carolina General Statutes.

**Sec. 6.** Nothing contained herein or in Article 13 of Chapter 160A of the North Carolina General statutes shall be construed as limiting or revoking the authority of the Eastern Band of Cherokee Indians, the police department of the Eastern Band of Cherokee Indians or any of the officers or employees of either entity in the exercise of their inherent powers of self-government, or the exercise of authority conferred by federal law or regulation, or by common law.

**Sec. 7.** Nothing contained herein or in Article 13 of Chapter 160A of the North Carolina General Statutes shall be construed as modifying, either by way of enlargement or limitation, the jurisdiction of the Court of Indian Offenses for the Eastern Band of the Cherokee Indians.

**Sec. 8.** Nothing contained herein shall be construed as modifying, either by way of enlargement or limitation, the jurisdiction or authority of any federal, State, or local law enforcement agency, governmental entity, or any of their officers or employees, except the Eastern Band of Cherokee Indians, the police department of the Eastern Band of Cherokee Indians, and their officers and employees to the extent set forth herein.

**Sec. 9.** Service as a Chief of Police, or police officer of the police department of the Eastern Band of Cherokee Indians pursuant to Article 13 of Chapter 160A of the North Carolina General Statutes shall constitute service as a "law enforcement officer" for purposes of Article 12E of Chapter 143 of the North Carolina General Statutes. "Employer" as defined in Article 12E of Chapter 143 of the North Carolina General Statutes shall be construed to include the Eastern Band of Cherokee Indians with respect to the Chief of Police and

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police officers of the Eastern Band of Cherokee Indians.

Sec. 10. G.S. 128-1.1(c) is hereby amended by inserting between the word "system" and the word "is" the following:

"or is commissioned as a special officer or deputy special officer of the United States Bureau of Indian Affairs".

Sec. 11. Chapter 566 of the 1969 Session Laws is hereby repealed.

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of June, 1987.

H.B. 714

**CHAPTER 428**

**AN ACT TO PROVIDE A PROCEDURE FOR THE WITHDRAWAL OF A RIGHT-OF-WAY DEDICATED FOR A FUTURE STREET.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 136-96 reads as rewritten:

" § 136-96. Road or street not used within 15 years after dedication deemed abandoned; declaration of withdrawal recorded; joint tenants or tenants in common; defunct corporations.--Every strip, piece, or parcel of land which shall have been at any time dedicated to public use as a road, highway, street, avenue, or for any other purpose whatsoever, by a deed, grant, map, plat, or other means, which shall not have been actually opened and used by the public within 15 years from and after the dedication thereof, shall be thereby conclusively presumed to have been abandoned by the public for the purposes for which same shall have been dedicated; and no person shall have any right, or cause of action thereafter, to enforce any public or private easement therein, except where such dedication was made less than 20 years prior to April 28, 1953, such right may be asserted within one year from and after April 28, 1953; provided, that no abandonment of any such public or private right or easement shall be presumed until the dedicator or some one or more of those claiming under him shall file and cause to be recorded in the register's office of the county where such land lies a declaration withdrawing such strip, piece or parcel of land from the public or private use to which it shall have theretofore been dedicated in the manner aforesaid; provided further, that where the fee simple title is vested in tenants in common or joint tenants of any land embraced within the boundaries of any such road, highway, street, avenue or other land dedicated for public purpose whatsoever, as described in this section, any one or more of such tenants, on his own or their behalf and on the behalf of the others of such tenants,