

FIREARMS (EXCERPT)
Act 372 of 1927

***** 28.425d.amended THIS AMENDED SECTION IS EFFECTIVE DECEMBER 1, 2015 *****

28.425d.amended Denial or failure to issue notice of statutory disqualification, receipt, or license; appeal.

Sec. 5d. (1) If the county clerk issues a notice of statutory disqualification, fails to provide a receipt that complies with section 5b(1) or 5l(3), or fails to issue a license to carry a concealed pistol as provided in this act, the department of state police fails to provide a receipt that complies with section 5l(3), or the county clerk, department of state police, county sheriff, local police agency, or other entity fails to provide a receipt that complies with section 5b(9), the applicant may appeal the notice of statutory disqualification, the failure to provide a receipt, or the failure to issue the license to the circuit court in the judicial circuit in which he or she resides. The appeal of the notice of statutory disqualification, failure to provide a receipt, or failure to issue a license shall be determined by a review of the record for error.

(2) If the court determines that the notice of statutory disqualification, failure to provide a receipt that complies with section 5b(1) or (9) or 5l(3), or failure to issue a license was clearly erroneous or was arbitrary and capricious, the court shall order the county clerk to issue a license or receipt as required by this act. For applications submitted after November 30, 2015, if the court determines that the notice of statutory disqualification, failure to provide a receipt that complies with section 5b(1) or (9) or 5l(3), or failure to issue a license was clearly erroneous, the court may order an entity to refund any filing fees the applicant incurred in filing the appeal, according to the degree of responsibility of that entity.

(3) For applications submitted before December 1, 2015, if the court determines that the decision of the concealed weapon licensing board to deny issuance of a license to an applicant was arbitrary and capricious, the court shall order this state to pay 1/3 and the county in which the concealed weapon licensing board is located to pay 2/3 of the actual costs and actual attorney fees of the applicant in appealing the denial. For applications submitted on or after December 1, 2015, if the court under subsection (2) determines that the notice of statutory disqualification, failure to provide a receipt that complies with section 5b(1) or (9) or 5l(3), or failure to issue a license to an applicant was arbitrary and capricious, the court shall order the county clerk, the entity taking the fingerprints, or the state to pay the actual costs and actual attorney fees of the applicant in appealing the notice of statutory disqualification, failure to provide a receipt that complies with section 5b(1) or (9) or 5l(3), or failure to issue a license, according to the degree of responsibility of the county clerk, the entity taking the fingerprints, or the state.

(4) If the court determines that an applicant's appeal was frivolous, the court shall order the applicant to pay the actual costs and actual attorney fees of the county clerk, entity taking the fingerprints, or the state in responding to the appeal.

History: Add. 2000, Act 381, Eff. July 1, 2001;—Am. 2002, Act 719, Eff. July 1, 2003;—Am. 2015, Act 3, Eff. Dec. 1, 2015.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: CPL

Popular name: Right to Carry

Popular name: Shall Issue