

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 590
Committee Substitute Favorable 5/4/89

Short Title: Amend Escheat Law.

(Public)

Sponsors:

Referred to:

March 15, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ESCHEAT AND ABANDONED PROPERTY LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116B-12 reads as rewritten:

"§ 116B-12. Property held by financial institutions.

(a) Deposits and Funds. – Any demand, savings or matured time deposit in a financial institution, or any funds paid toward the purchase of shares or other interest in a financial institution shall be presumed abandoned if the financial institution is unable to locate the owner and if, within the preceding five years, as to any demand deposit, or a savings or time deposit or interest having a value of one thousand dollars (\$1,000) or less, or within the preceding 10 years, as to any such savings or time deposit or interest having a value of more than one thousand dollars (\$1,000), the owner has not:

- (1) Increased or decreased the amount of the deposit, shares or claim, or presented to the holder the passbook, evidence of deposit or other appropriate record for the crediting of interest or dividends;
- (2) Corresponded in writing with the holder concerning the deposit, shares or claim; ~~or~~
- (3) Otherwise indicated an interest in the deposit, shares or claim as evidenced by a writing on file with the ~~holder.~~ holder; or
- (4) Maintained another account at the same financial institution that complies with (1), (2), or (3) above.

1 The financial institution shall make reasonable efforts to locate the owner and to
2 determine whether its records disclose a different address for the owner.

3 (b) Written Instruments. – Any sum payable on a check certified in the State or
4 on any written instrument issued in the State on which a financial institution is directly
5 liable shall be presumed abandoned if, within 10 years from the date payable, or from
6 the date of issuance, if payable on demand, the owner has not:

7 (1) Negotiated the instrument;

8 (2) Corresponded in writing with the financial institution concerning it;
9 nor

10 (3) Otherwise indicated an interest by a writing on file with the financial
11 institution.

12 (c) Traveler's Checks. – Any sum payable on a traveler's check, money order or
13 a similar written instrument on which a financial institution or other business
14 association is directly liable shall be presumed abandoned if, within 15 years from the
15 date payable, or from the date of issuance, if payable on demand, the owner has not:

16 (1) Negotiated the instrument;

17 (2) Corresponded in writing with the financial institution or other business
18 association concerning it; nor

19 (3) Otherwise indicated an interest as indicated by a writing on file with
20 the financial institution or other business association.

21 (d) Safe Deposit Box. – Any funds or other personal property, tangible or
22 intangible, contained in or removed from a safe deposit box or other safekeeping
23 repository shall be presumed abandoned if the owner has not claimed the property
24 within the period established by G.S. 53-43.7 and shall be delivered to the State
25 Treasurer.

26 (e) Charges, Interest or Dividends on Abandoned Property. –

27 (1) Reasonable service charges may be levied against deposits or accounts
28 during the period prior to abandonment, presumed to be abandoned,
29 provided those charges may not exceed the charges levied against
30 similar active deposits or accounts ~~accounts.~~ or the actual cost of
31 administering the account or deposit.

32 (2) Interest or dividends due on any deposits, accounts, funds or shares
33 presumed to be abandoned shall not be discontinued or diverted
34 because of the inactivity or during the period prior to abandonment."

35 Sec. 2. G.S. 116B-19 reads as rewritten:

36 "**§ 116B-19. Property held by governmental agents.**

37 All property not otherwise covered by this Chapter, and held for the owner by a
38 court, public corporation or authority, or agent or instrumentality of the United States,
39 this State or any other state, or by a public officer or political subdivision thereof, shall
40 be presumed abandoned if it is not claimed or if the owner refuses to accept it within
41 five years of becoming payable or distributable."

42 Sec. 3. G.S. 116B-32 reads as rewritten:

43 "**§ 116B-32. Relief from liability by payment or delivery.**

1 Upon the payment or delivery of abandoned property to the Treasurer, the State shall
2 assume custody of the property and shall be responsible for its safekeeping. Any person
3 who pays or delivers abandoned property to the Treasurer under this Chapter is relieved
4 of all liability to the extent of the value of the property so paid or delivered for any
5 claim which then exists or which thereafter may arise or be made in respect to the
6 property. If the property is other than cash in possession of the holder, the Treasurer
7 shall agree to indemnify the holder for claims arising out of or in connection with the
8 lawful delivery of the property by the holder to the Treasurer."

9 Sec. 4. G.S. 116B-41(c) reads as rewritten:

10 "(c) Interest Penalty. – In addition to any other damages, penalties or fines, any
11 ~~person-holder~~ who fails to render reports, files a false or incomplete report, refuses to
12 pay or deliver abandoned property to the Treasurer or perform any other duties required
13 under this Chapter shall be charged interest at the rate of twelve percent (12%) per
14 annum on the property or its value from the date prescribed in G.S. 116B-31 that the
15 property should have been reported, paid, delivered or the day the false or incomplete
16 report was filed, until a correct report is filed."

17 Sec. 5. G.S. 116B-42 reads as rewritten:

18 "**§ 116B-42. Rules.**

19 The Treasurer ~~or, with respect to insurers, the Commissioner~~ may adopt rules necessary
20 to carry out this Chapter."

21 Sec. 6. G.S. 116B-43(a) reads as rewritten:

22 "(a) Limit on Fees. – No agreement entered into after a report is required to be
23 filed under G.S. 116B-29 is valid if any person undertakes thereby to locate or reveal the
24 whereabouts of property included in that report for a fee or compensation, unless the
25 agreement is:

- 26 (1) In writing and duly signed and acknowledged by the property owner;
27 and
- 28 (2) Clearly states the fee or compensation or other charges to be paid,
29 which may not exceed twenty-five percent (25%) of the actual value
30 of the property recovered; and
- 31 (3) Discloses the nature and value of the property; and
- 32 (4) Discloses the name and address of the holder; ~~or and~~ discloses that the
33 property has been paid or delivered to the Escheat Fund. Fund of the
34 North Carolina State Treasurer."

35 Sec. 7. G.S. 116B-44 reads as rewritten:

36 "**§ 116B-44. Effect of laws of other states.**

37 This Chapter shall not apply to any property that has been ~~presumed abandoned or~~
38 ~~escheated~~ delivered as unclaimed or escheated property under the laws of another state
39 prior to the effective date of this Chapter."

40 Sec. 8. This act is effective upon ratification.