

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 590

Short Title: Amend Escheat Law.

(Public)

Sponsors: Representatives DeVane; and Bowman.

Referred to: Government.

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.

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

(b) Written Instruments. – Any sum payable on a check certified in the State or on any written instrument issued in the State on which a financial institution is directly

1 liable shall be presumed abandoned if, within 10 years from the date payable, or from
2 the date of issuance, if payable on demand, the owner has not:

3 (1) Negotiated the instrument;

4 (2) Corresponded in writing with the financial institution concerning it;
5 nor

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

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

12 (1) Negotiated the instrument;

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

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

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

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

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

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

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

32 "**§ 116B-19. Property held by governmental agents.**

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

38 Sec. 3. G.S. 116B-28(g) is repealed.

39 Sec. 4. G.S. 116B-29(d) reads as rewritten:

40 "(d) Time of Filing. – The report shall be filed before March 1 of each year as of
41 the prior June 30, but the report of insurers shall be filed before May 1 of each year as
42 of the prior December 31. The Treasurer, in his discretion, may postpone the reporting
43 date for a period not exceeding six months upon written request by any person required

1 to file a report. ~~The Department of Revenue may use the dates prescribed in this subsection~~
2 ~~for insurers in filing reports of unclaimed property with the State Treasurer."~~

3 Sec. 5. G.S. 116B-32 reads as rewritten:

4 **"§ 116B-32. Relief from liability by payment or delivery.**

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

13 Sec. 6. G.S. 116B-41(c) reads as rewritten:

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

21 Sec. 7. G.S. 116B-42 reads as rewritten:

22 **"§ 116B-42. Rules.**

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

25 Sec. 8. G.S. 116B-43(a) reads as rewritten:

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

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

39 Sec. 9. G.S. 116B-44 reads as rewritten:

40 **"§ 116B-44. Effect of laws of other states.**

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

44 Sec. 10. This act is effective upon ratification.