

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 244 (Second Edition) Unclaimed Property Act/ AB

SHORT TITLE: Unclaimed Property Act/ AB

SPONSOR(S):

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>
REVENUES					
Escheat Fund					
Gift Certificates	(\$250,000)	(\$500,000)	(\$500,000)	(\$500,000)	(\$500,000)
Manufactured Homes	(\$1,200,000)				
Bus. Credit Balances	(\$125,000)	(\$250,000)	(\$250,000)	(\$250,000)	(\$250,000)
Extension Request	\$250	\$500	\$500	\$500	\$500
EXPENDITURES					
State Education					
Assistance Authority		(\$94,485)	(\$139,455)	(\$184,425)	(\$229,395)
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of State Treasurer – Escheat and Unclaimed Property Program					
EFFECTIVE DATE: The act becomes effective January 1, 2000.					

BILL SUMMARY: This bill rewrites the escheat and unclaimed property laws in North Carolina.

ASSUMPTIONS AND METHODOLOGY:

The following sections of SB 244 have a potential fiscal impact on the Escheat Fund:

Section 5 – G.S. 116B-8

This section has no fiscal impact. This section limits the compensation the State Treasurer pays companies to uncover unreported, escheatable property. The limit will be 10% of the final assessment of property escheated to the state. This provision will not affect the Treasurer's

current contracts with two firms. The state contract with the National Abandoned Property Processing Corp. pays 10% of the recovered property. The state contract with the Unclaimed Property Clearinghouse pays 12% (6% for an audit and 6% for processing) for recovered property. This 12% is really for two separate functions that are paid as one fee. The provision would force the Treasurer to make two payments for these services.

Section 6 – G.S. 116B-53(c) & G.S. 116B-54(b)

Amending these statutes will produce a loss of revenue for the Escheat Fund by exempting gift certificates, manufactured home buyer's deposits, and credit balances between businesses from the definition of abandoned property. As for prepaid calling cards and electronic gift cards, there is no revenue loss because the Treasurer has never escheated these items. However, assuming that these items are eligible for escheat, there is a potential revenue loss that cannot be estimated at this time.

I. Gift Certificates

The Director of the Escheat and Unclaimed Property Program estimates that the Escheat Fund will lose \$500,000 per year in unclaimed assets by eliminating gift certificates from escheat. Since the Escheat and Unclaimed Property Program does not record whether a gift certificate has an expiration date or not, this estimate assumes all unclaimed gift certificates are eligible to escheat. In 1998, the state received \$117,522 from five companies that listed gift certificates as a specific property type. However, officials in the Escheat and Unclaimed Property Program believe that most gift certificates and gift cards are grouped together with other property types that are reported by businesses. The state collected \$6.9 million in unclaimed property from businesses other than banks, insurance companies, and utilities in 1998. It is unknown what percentage of this amount is from gift certificates.

The Director of the Escheat and Unclaimed Property Program believes his agency has only begun discovering unclaimed gift certificates, phone cards, and electronic gift cards. The State Treasurer has six auditors and two contract audit firms that search for unclaimed property in North Carolina and in other states. A recent multi-state audit of a large retail chain found \$1 million in unclaimed gift certificates in North Carolina. This \$1 million will be remitted to the state over the next four years unless prohibited by SB 244.

To gauge whether North Carolina's estimate of escheated gift certificates was reasonable, unclaimed property programs in other states were surveyed by e-mail by legislative staff. Of the small number of states that responded, gift certificate collections in Indiana and Maine appear to validate the \$500,000 estimate for North Carolina. An official with the Indiana Office of the Attorney General reported that \$425,000 in gift certificates were escheated to the state in 1998. Indiana has a population of 5.8 million versus North Carolina's 7.4 million. Maine, state population 1.24 million, had \$209,100 in gift certificates escheated in 1998. Some states reported that they grouped many classes of property together like North Carolina. Other states escheated gift certificates but admitted their low collections were due to noncompliance by retailers and the state's lack of aggressiveness in seeking unclaimed gift certificates.

II. Manufactured Home Buyers' Deposit

The Escheat and Unclaimed Property Program conducted an audit of a major mobile home manufacturer in North Carolina and found **\$1.2 million in unclaimed buyers' deposits.** Passage of SB 244 would prevent the deposit of these funds into the Escheat Fund. There is also

an annual revenue loss to the Escheat Fund from this exemption, but no estimate is available from the Treasurer's staff at this time.

III. Credit Balances

It is estimated that the Escheat Fund will lose \$250,000 a year if credit balances between businesses are exempted from escheat. Since 1988, the Escheat Fund has received \$1.46 million in unclaimed credit balances from in-state and out-of-state property holders. In the last four fiscal years, business to business credit balances have averaged \$250,000 a year.

Section 6 – 116B-60

This section will generate annual revenue of \$500 for the Escheat Fund. The Treasurer receives approximately 50 requests a year from property holders who request extensions for filing a report. Fifty requests times the \$10 fee is \$500.

Section 6 – 116B-72

No estimate available. The Escheat and Unclaimed Property Program did 57 record examinations in FY 97-98. This section would allow the Treasurer to charge \$200 a day for an exam of a property holder who made a fraudulent report of unclaimed property. The Treasurer's staff does not think this power will be used often due to the difficulty of proving fraud.

Section 6 – 116B-73.1

No fiscal impact. This section states that the Treasurer may charge \$500 per day for precompliance reviews. Heretofore, the Treasurer has provided five property holder seminars a year and offered free precompliance advice. The Treasurer's staff does not intend to charge for their compliance efforts.

Section 6 – 116B-76

No estimate available. This section will reduce the interest rate on holders who fail to report, pay, or deliver property in a prescribed time. The interest rate reduction from 12% to the market rate will reduce interest earnings for the Escheat Fund. No estimate is available for the increase in the civil penalty for fraudulent reporting because the Treasurer has not used this authority.

Section 6 – 116B-77

No fiscal impact. The \$100 registration fee for third party tracers is not anticipated to be used because there are none presently operating in North Carolina.

SEAA

The interest from the Escheat Fund is deposited with the North Carolina State Education Assistance Authority (SEAA) to provide financial assistance to students in state supported schools of higher education. The interest on Escheat Fund investments in future years is calculated at 6% per year. This is the short-term investment rate recommended by the State Treasurer. It is assumed that the interest will accrue the year after the property is escheated. This interest would have been deposited with the State Education Assistance Authority to be used for student loans. The interest lost each year is as follows:

	<u>Cumulative</u>	<u>Interest</u>
FY 1999-00	\$1,574,750	
FY 2000-01	\$2,324,250	\$94,485
FY 2001-02	\$3,073,750	\$139,455

FY 2002-03	\$3,823,250	\$184,425
FY 2003-04	\$4,572,750	\$229,395

FISCAL RESEARCH DIVISION 733-4910

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