

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

H

1

HOUSE BILL 294

Short Title: Unclaimed Property Notice Requirements.-AB (Public)

Sponsors: Representative Hurley.

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Regulatory Reform, if favorable, Finance

March 9, 2017

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE NOTICE REQUIREMENTS AND PENALTY FOR  
THE DISPOSITION OF ABANDONED PROPERTY AND TO MAKE TECHNICAL AND  
CLARIFYING CHANGES TO THE UNCLAIMED PROPERTY STATUTES.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Section 2 of S.L. 2015-68 is repealed.

**SECTION 1.(b)** This section is retroactively effective October 1, 2015.

**SECTION 2.** G.S. 116B-70, as amended by Section 1(a) of this act, reads as  
rewritten:

"§ 116B-70. **Destruction or disposition of property having no substantial ~~or~~ commercial value; immunity from ~~liability~~ liability; property of historical significance.**

(a) If the Treasurer determines after investigation that ~~property~~ property, including stock or other equity interest in a business association, including a security entitlement under Article 8 of Chapter 25 of the General Statutes, delivered under this Chapter has no substantial commercial value, the Treasurer may destroy or otherwise dispose of the property at any time. An action or proceeding may not be maintained against the State or any officer, employee, or agent of the State, both past and present, in the person's individual and official capacity, or against the holder for or on account of an act of the Treasurer under this subsection, except for intentional misconduct.

(b) Notwithstanding the provisions of G.S. 116B-65, the Treasurer may retain any tangible property delivered to the Treasurer, if the property has recognized historic significance. The historic significance shall be certified by the Treasurer, with the advice of the Secretary of Natural and Cultural Resources; and a statement of the appraised value of the property shall be filed with the certification. Historic property retained under this subsection may be stored and displayed at any suitable location."

**SECTION 3.(a)** G.S. 116B-59 reads as rewritten:

"§ 116B-59. **Notice by holders to apparent owners.**

(a) ~~A holder of property presumed abandoned shall make a good faith effort to locate an apparent owner.~~

(a1) A holder of property that is presumed abandoned and that is either (i) stock, or other equity interest in a business association, including a security entitlement under Article 8 of Chapter 25 of the General Statutes, that is valued at twenty-five dollars (\$25.00) or more or (ii) property, other than stock or other equity interest in a business association, including a security entitlement under Article 8 of Chapter 25 of the General Statutes, that is valued at fifty dollars (\$50.00) or more shall provide written notice to the apparent owner through the following means:



1           (1) The holder shall send written notice by first-class mail to the apparent owner  
 2 not more than 120 days or less than 60 days before filing the report required by  
 3 G.S. 116B-60. If the holder has reason to believe the mailing address is not  
 4 correct or the holder does not have a mailing address, not more than 120 days  
 5 or less than 60 days before filing the report required by G.S. 116B-60, the  
 6 holder shall conduct at least one search on an information database service, or  
 7 such other alternative as the Treasurer may authorize. If the search appears to  
 8 reveal a new mailing address for the apparent owner, the written notice shall be  
 9 sent to that address.

10           (2) If the apparent owner has consented to receive electronic mail from the holder  
 11 and the holder has a valid electronic mail address, the holder shall, in addition  
 12 to the written notice sent by first-class mail, send written notice electronically  
 13 to the apparent owner's electronic mail address.

14           ~~(b) The holder shall send written notice, by first class mail, to the apparent owner, not~~  
 15 ~~more than 120 days or less than 60 days before filing the report required by G.S. 116B-60, to the~~  
 16 ~~last known address of the apparent owner as reflected in the holder's records, if the value of the~~  
 17 ~~property is fifty dollars (\$50.00) or more.~~

18           (c) The written notice to apparent owners required under this section must contain:  
 19 all of the following:

20           (1) A statement that, according to the records of the holder, property is being held  
 21 to which the addressee appears entitled and the amount or entitled, a description  
 22 of the property; property, and the amount or value of the property if known.

23           (2) The name and address name, address, and contact information of the person  
 24 holding the property and any necessary information regarding changes of name  
 25 and address of the holder; holder.

26           (3) A statement that, if satisfactory proof of claim is not presented by the owner to  
 27 the holder by the following October 1 or, if the holder is an insurance company,  
 28 by the following April 1, the property will be placed in the custody of the  
 29 Treasurer, to whom all further claims shall be directed.

30           (4) A statement that, once property is placed in the custody of the Treasurer, all  
 31 interest, dividends, income, and gains earned on the property will remain with  
 32 the Treasurer, even if the owner subsequently reclaims the property from the  
 33 Treasurer."

34           **SECTION 3.(b)** G.S. 116B-77 reads as rewritten:

35 **"§ 116B-77. Interest and penalties; waiver.**

36           (a) A holder who fails to report, pay, or deliver property within the time prescribed by this  
 37 Chapter shall pay to the Treasurer interest at the rate established pursuant to this subsection on the  
 38 property or value of the property from the date the property should have been reported, paid, or  
 39 delivered. On or before June 1 and December 1 of each year, the Treasurer shall establish the  
 40 interest rate to be in effect during the six-month period beginning on the next succeeding July 1  
 41 and January 1, respectively, after giving due consideration to current market conditions. If no new  
 42 rate is established, the rate in effect during the preceding six-month period shall continue in effect.  
 43 The rate established by the Treasurer may not be less than five percent (5%) per year and may not  
 44 exceed sixteen percent (16%) per year.

45           (b) A holder who willfully fails to report, pay, or deliver property within the time  
 46 prescribed by this Chapter, or willfully fails to perform other duties imposed by this Chapter, shall  
 47 pay to the Treasurer, in addition to interest as provided in subsection (a) of this section, a civil  
 48 penalty of one thousand dollars (\$1,000) for each day the report, payment, or delivery is withheld,  
 49 or the duty is not performed, up to a maximum of twenty-five thousand dollars (\$25,000), plus  
 50 twenty-five percent (25%) of the value of any property that should have been but was not reported.

1 (c) A holder who makes a fraudulent report shall pay to the Treasurer, in addition to  
2 interest as provided in subsection (a) of this section, a civil penalty of one thousand dollars  
3 (\$1,000) for each day from the date a report under this Chapter was due, up to a maximum of  
4 twenty-five thousand dollars (\$25,000), plus twenty-five percent (25%) of the value of any  
5 property that should have been but was not reported.

6 (c1) If a holder fails to perform its duties under G.S. 116B-59, the Treasurer may access a  
7 civil penalty of one thousand dollars (\$1,000) for each day a requirement is not performed, up to a  
8 maximum penalty of twenty-five thousand dollars (\$25,000).

9 (d) The Treasurer for good cause may waive, in whole or in part, interest under subsection  
10 (a) of this section and penalties under subsection (b) and subsection (c1) of this section."

11 **SECTION 3.(c)** This section becomes effective October 1, 2017, and applies to  
12 property presumed abandoned on or after that date.

13 **SECTION 4.** G.S. 116B-52(11) reads as rewritten:

14 "(11) "Property" means (i) money or tangible personal property held by a holder that  
15 is physically located in a safe deposit box or other safekeeping depository held  
16 by a financial institution within this State or (ii) a fixed and certain interest in  
17 intangible property or money that is held, issued, or owed in the course of a  
18 holder's business, or by a government, governmental subdivision, agency, or  
19 instrumentality, and all income or increments therefrom. The term includes  
20 property that is referred to as or evidenced by:

- 21 a. Money, a check, draft, deposit, interest, or dividend;
- 22 b. Credit balance, customer's overpayment, gift certificate, security  
23 deposit, refund, credit memorandum, unpaid wage, unused ticket,  
24 mineral proceeds, or unidentified remittance;
- 25 c. Stock or other evidence of ownership of an interest in a business  
26 association;
- 27 d. A bond, debenture, note, or other evidence of indebtedness;
- 28 e. Money deposited to redeem stocks, bonds, coupons, or other securities,  
29 or to make distributions;
- 30 f. An amount due and payable under the terms of an annuity or insurance  
31 policy, including policies providing life insurance, property and casualty  
32 insurance, workers' compensation insurance, or health and disability  
33 insurance; and
- 34 g. An amount distributable from a trust or custodial fund established under  
35 a plan to provide health, welfare, pension, vacation, severance,  
36 retirement, death, stock purchase, profit sharing, employee savings,  
37 supplemental unemployment insurance, or similar benefits."

38 **SECTION 5.** Unless otherwise provided, this act is effective when it becomes law.