

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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HOUSE BILL 155

Short Title: Unclaimed Property Changes.-AB (Public)

Sponsors: Representative Hurley.

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

Referred to: Judiciary, if favorable, Rules, Calendar, and Operations of the House

February 25, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES TO THE UNCLAIMED PROPERTY STATUTES.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.(a)** The title of Article 1 of Chapter 116B of the General Statutes is
5 renamed to be "General."

6 **SECTION 1.(b)** G.S. 116B-1 is recodified as G.S. 116B-2.1.

7 **SECTION 1.(c)** G.S. 116B-2 is recodified as G.S. 116B-2.2.

8 **SECTION 1.(d)** G.S. 116B-2.1, as recodified by subsection (b) of this section,
9 through G.S. 116B-8, are recodified into a new Article 1A of Chapter 116B of the General
10 Statutes to be named "Escheats."

11 **SECTION 1.(e)** G.S. 116B-2.2, as recodified by subsection (c) of this section, reads
12 as rewritten:

13 **"§ 116B-2.2. Unclaimed real and personal property escheats to the Escheat Fund.**

14 Whenever the owner of any real or personal property situated or located within this State dies
15 intestate, or dies testate but did not dispose of all real or personal property by will, without leaving
16 surviving any heirs, as defined in G.S. 29-2(3), to inherit said property under the laws of this
17 State, such real and personal property shall escheat. The State Treasurer shall have the right to
18 institute a civil action in the superior court of any county in which such real or personal property
19 is situated, against any administrator, executor, and unknown heirs or unknown claimants as
20 party defendants, which unknown heirs or unknown claimants may be served with summons and
21 notice of such action by publication as is now provided by the laws of this State. If an
22 administrator or executor has been appointed, he shall make a determination that there are no
23 known heirs or unknown claimants and shall inform the State Treasurer of that determination.
24 The superior court in which such civil action is instituted shall have the authority to enter a
25 judgment therein declaring the real and personal property unclaimed as having escheated, and
26 the real property may be sold according to the provisions of ~~G.S. 116B-1~~, G.S. 116-2.1. A default
27 final judgment may be entered by the clerk of the superior court in such cases when no answer is
28 filed by the administrator, executor, unknown heirs or unknown claimants to the complaint, or if
29 any answer is filed, the allegations of the complaint are either admitted or not denied by such
30 party defendants, and no claim is made in the answer to the property left by said deceased person.
31 The funds derived from such sale shall be paid into the Escheat Fund where said funds, together
32 with all other escheated funds, shall be held without liability for profit or interest, subject to any
33 just claims therefor."

34 **SECTION 1.(f)** G.S. 116B-3 reads as rewritten:

35 **"§ 116B-3. Unclaimed personalty on settlements of decedents' estates to the Escheat Fund.**



1 All sums of money or other personal estate of whatever kind which shall remain in the hands
2 of any administrator, executor, administrator c.t.a., or personal representative when the
3 administration of an estate of a person dying intestate, or partially intestate, without leaving any
4 known heirs to inherit same, is ready to be closed, unrecovered or unclaimed by suit, by creditors,
5 heirs, or others entitled thereto, shall, prior to the closing of the administration of the estate, be
6 paid or delivered by such administrator or executor to the State Treasurer as an escheat and shall
7 be included in the disbursements in the final account of such estate. In such cases as above
8 described, the State Treasurer is authorized to demand, sue for, recover, and collect such
9 unclaimed moneys or other personal estate of whatever kind from any administrator or executor
10 after the estate is ready to be closed, or from the clerk of the superior court if the unclaimed assets
11 have been paid over to him, and the State Treasurer shall hold the same without liability for profit
12 or interest, subject to any just claims therefor. The provisions of this section and ~~G.S. 116B-2~~
13 G.S. 116B-2.2 shall apply to the estate of a person missing for 30 days or more and the State
14 Treasurer may bring an action to have a receiver appointed in such case under the provisions of
15 Chapter 28C, Estates of Missing Persons."

16 **SECTION 1.(g)** G.S. 29-12 reads as rewritten:

17 **"§ 29-12. Escheats.**

18 If there is no person entitled to take under G.S. 29-14 or G.S. 29-15, or if in case of an
19 intestate born out of wedlock, there is no one entitled to take under G.S. 29-21 or G.S. 29-22, the
20 net estate shall escheat as provided in ~~G.S. 116B-2~~G.S. 116B-2.2."

21 **SECTION 2.** Article 1 of Chapter 116B of the General Statutes is amended by adding
22 a new subsection to read:

23 **"§ 116B-1.1. Policy and interpretation.**

24 The policy of the State is to recover and transfer property to rightful owners in a manner that
25 is consistent with the interest of the rightful owners. Where the rightful owner cannot be
26 appropriately determined, it is the policy of the State that all benefits realized from any unclaimed
27 or abandoned property shall accrue to the benefit of higher education for the residents of the
28 State. This Chapter shall be liberally interpreted in a manner that fulfills these purposes."

29 **SECTION 3.** G.S. 116B-64 reads as rewritten:

30 **"§ 116B-64. ~~Income-Loss, income, or gain accruing after payment or delivery.~~**

31 If property other than money is delivered to the Treasurer under this Chapter, the owner is
32 entitled to receive from the Treasurer any income or gain realized or accruing on the property at
33 or before liquidation or conversion of the property into money. If the property is interest-bearing
34 or pays dividends, the interest or dividends shall be paid until the date on which the amount of
35 the deposits, accounts, or funds, or the shares must be remitted or delivered to the Treasurer under
36 G.S. 116B-61. Otherwise, when property is delivered or paid to the Treasurer, the Treasurer shall
37 hold the property without liability for ~~income-loss, income, or gain.~~"

38 **SECTION 4.** G.S. 116B-75(b) reads as rewritten:

39 "(b) The Treasurer may order a person required to report, pay, or deliver property under
40 this Chapter, or an officer or employee of the person, or a person having possession, custody,
41 care, or control of records relevant to the matter under inquiry, or any other person having
42 knowledge of the property or records, to (i) appear before the Treasurer, at a time and place
43 named in the order, ~~and to (ii) produce the records and to reports and records, (iii) make the~~
44 required payments, (iv) make the required delivery of property, and (v) give such testimony under
45 oath or affirmation relevant to the inquiry. For purposes of this subsection, the Treasurer may
46 administer oaths or affirmations. If a person refuses to obey an order of the Treasurer, the
47 Treasurer may apply to the Superior Court of Wake County for an order requiring the person to
48 obey the order of the Treasurer. Failure to comply with the court order is punishable for
49 contempt."

50 **SECTION 5.(a)** G.S. 116B-60(a) reads as rewritten:

1 "(a) A holder of property presumed abandoned shall ~~make file~~ a report ~~to in an electronic~~
2 ~~format prescribed by the~~ Treasurer concerning the property. ~~Holders reporting 50 or more~~
3 ~~property owner records shall file the report in an electronic format prescribed by the Treasurer.~~
4 ~~Holders reporting less than 50 property owner records may file the report electronically.~~ Holders
5 reporting electronically ~~may~~ shall file an electronic certification and verification in order to
6 comply with subsection (f) of this section."

7 **SECTION 5.(b)** This section is effective January 1, 2020, and applies to reports filed
8 on or after that date.

9 **SECTION 6.** G.S. 116B-60(b1) reads as rewritten:

10 "(b1) ~~Amounts—With the exception of property subject to G.S. 116B-53(c)(4),~~
11 ~~116B-53(c)(5), and 116B-53(c)(5a), amounts due an apparent owner less than fifty dollars~~
12 (\$50.00) may be reported in an aggregate amount without furnishing any of the information
13 required by subsection (b) of this section."

14 **SECTION 7.(a)** G.S. 116B-63 reads as rewritten:

15 **"§ 116B-63. Custody by State; recovery by holder; defense of holder.**

16 (a) In this section, payment or delivery is made in "good faith" ~~if~~ if all of the following
17 apply:

- 18 (1) Payment or delivery was made in a reasonable attempt to comply with this
19 ~~Chapter;~~ Chapter.
- 20 (2) The holder was not then in breach of a fiduciary obligation with respect to the
21 property and had a reasonable basis for believing, based on the facts then
22 known, that the property was presumed ~~abandoned; and~~ abandoned.
- 23 (3) There is no showing that the records under which the payment or delivery was
24 made did not meet reasonable commercial standards of practice.

25 (b) Upon payment or delivery of property to the Treasurer, the State assumes custody and
26 responsibility for the safekeeping of the property. A holder who pays or delivers property to the
27 Treasurer in good faith is relieved of all liability arising thereafter with respect to the property.

28 (c) A holder who has paid money to the Treasurer pursuant to this Chapter may
29 subsequently make payment to a person reasonably appearing to the holder to be entitled to
30 payment. Upon a filing with the Treasurer by the holder on a form prescribed by the Treasurer
31 of proof of payment and proof that the payee was entitled to the payment, the Treasurer shall
32 promptly reimburse the holder for the payment without imposing a fee or other charge. If
33 reimbursement is sought for a payment made on a negotiable instrument, including a traveler's
34 check or money order, the holder must be reimbursed upon filing proof with the Treasurer that
35 the instrument was duly presented and that payment was made to a person who reasonably
36 appeared to be entitled to payment. The holder must be reimbursed for payment made even if the
37 payment was made to a person whose claim was barred under G.S. 116B-71(a).

38 (d) A holder who has delivered property other than money to the Treasurer pursuant to
39 this Chapter may reclaim the property if it is still in the possession of the Treasurer, without
40 paying any fee or other charge, upon filing proof that the apparent owner has claimed the property
41 from the holder.

42 (d1) A holder who has in good faith paid or delivered property to the Treasurer in error
43 may request a refund from the Treasurer. Upon a filing with the Treasurer by the holder of proof
44 of the error on a form prescribed by the Treasurer, the Treasurer may refund the holder.

45 (e) The Treasurer may accept a holder's affidavit as sufficient proof of the holder's right
46 to recover money and property under this section.

47 (f) If a holder pays or delivers property to the Treasurer in good faith and thereafter
48 another person claims the property from the holder or another state claims the money or property
49 under its laws relating to escheat or abandoned or unclaimed property, the Treasurer, upon written
50 notice of the claim, shall defend the holder against the claim and indemnify the holder against
51 any liability on the claim resulting from payment or delivery of the property to the Treasurer."

1 **SECTION 7.(b)** This section is effective when it becomes law and applies to filings
2 made on or after that date.
3 **SECTION 8.** Except as otherwise provided, this act is effective when it becomes
4 law.