

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 765  
Committee Substitute Favorable 4/20/93

Short Title: Escheat/Abandoned Property.

(Public)

Sponsors:

Referred to:

April 6, 1993

A BILL TO BE ENTITLED

AN ACT TO MAKE AMENDMENTS TO THE LAW OF ESCHEATS AND UNCLAIMED PROPERTY.

The General Assembly of North Carolina enacts:

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

"(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;
- (3) Otherwise indicated an interest in the deposit, shares or claim as evidenced by a writing on file with the holder; or
- (4) Maintained another account at the same financial institution that complies with (1), (2), or (3) above.

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

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

5 (1) Negotiated the instrument;

6 (2) Corresponded in writing with the financial institution concerning it;  
7 nor

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

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

14 (1) Negotiated the instrument;

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

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

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

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

25 (1) Reasonable service charges may be levied against deposits or accounts  
26 during the period prior to abandonment, provided those charges may  
27 not exceed the charges levied against similar active deposits or  
28 accounts.

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

32 Sec. 2. G.S. 116B-13 reads as rewritten:

33 **"§ 116B-13. Property held by life insurers.**

34 (a) Funds Owed under a Policy or Contract. – Any funds held or owing by a life  
35 insurer that are due and payable under any life or endowment insurance policy or  
36 annuity contract which has matured or terminated shall be presumed abandoned if they  
37 have not been claimed or paid within ~~10~~five years after becoming due or payable as  
38 established from the insurer's records. Funds payable according to the insurer's records  
39 are deemed due and payable although the policy or contract has not been surrendered as  
40 required. The insurer shall make reasonable efforts to locate the insured or annuitant  
41 and to determine whether its records disclose a different address for the insured or  
42 annuitant.

43 (b) Presumption of Address of Beneficiary. – If a person other than the insured or  
44 annuitant is entitled to the funds and no address of the person is known to the insurer or

1 if it is not definite and certain from the records of the insurer what person is entitled to  
2 the funds, it is presumed that the last known address of the person entitled to the funds  
3 is the same as the last known address of the insured or annuitant according to the  
4 records of the insurer.

5 (c) Presumption of Maturity. – A life insurance policy not matured by actual  
6 proof of the death of the insured is deemed to be matured, and the proceeds are deemed  
7 to be due and payable if the policy was in force when the insured attained the limiting  
8 age under the mortality table on which the reserve is based, unless the person appearing  
9 entitled thereto has, within the preceding five years, assigned, readjusted or paid  
10 premiums on the policy, negotiated a dividend check, made payments on a loan, or  
11 corresponded in writing with the life insurer concerning the policy.

12 (d) Negotiable Instruments. – Any sum for the payment of a claim under an  
13 insurance policy or contract, which sum is payable on a negotiable instrument on which  
14 the insurer is the maker or drawer shall be presumed abandoned if, within ~~10~~five years  
15 from the date payable, or from the date of issuance, if payable on demand, the owner  
16 has not:

- 17 (1) Negotiated the instrument;
- 18 (2) Corresponded in writing with the insurer concerning it; nor
- 19 (3) Otherwise indicated an interest by a writing on file with the insurer."

20 Sec. 3. G.S. 116B-29 reads as rewritten:

21 **"§ 116B-29. Report of abandoned property by holder to Treasurer.**

22 (a) Reports to Treasurer. – ~~Every insurer holding property presumed abandoned~~  
23 ~~under the provisions of one or more of the following sections, G.S. 116B-13, 116B-14,~~  
24 ~~116B-16, 116B-17, 116B-20, or 116B-21, shall report and make payment to the~~  
25 ~~Treasurer in accordance with G.S. 116B-31. Every other person holding funds or other~~  
26 holder of property, tangible or intangible, presumed abandoned under this Chapter shall  
27 report to the State Treasurer with respect to that property.

28 (b) Contents. – The report shall be verified and shall include:

- 29 (1) The name, if known, and last known address, if any, of each person  
30 appearing from the records of the holder to be the owner of any  
31 property of the value of fifty dollars (\$50.00) or more;
- 32 (2) In the case of unclaimed funds of an insurer, the full name of the  
33 insured or annuitant and his last known address according to the  
34 insurer's records;
- 35 (3) The nature and identifying number, if any, or description of the  
36 property and the amount appearing from the records to be due, except  
37 that items of value under fifty dollars (\$50.00) each may be reported in  
38 the aggregate;
- 39 (4) A certification that the property reported has been held for the period  
40 required by Article 2 of this Chapter; and
- 41 (5) Other information which the Treasurer prescribes by rule.

42 (c) Names of Prior Holders. – If the person holding property presumed  
43 abandoned is a successor to other persons who previously held the property for the

1 owner, or if the holder has changed his name while holding the property, he shall file  
2 with his report all prior known names and addresses of each holder of the property.

3 (d) Time of Filing. – The report of holders other than insurers shall be filed  
4 before March 1 of each year and cover property presumed abandoned as of the prior  
5 June 30, ~~but the 30.~~ The report of insurers shall be filed before ~~May 1~~ November 1 of  
6 each year and cover property presumed abandoned as of the prior December 31. The  
7 Treasurer, in his discretion, may postpone the reporting date for a period not exceeding  
8 six months upon written request by any person required to file a report. ~~The Department~~  
9 ~~of Revenue may use the dates prescribed in this subsection for insurers in filing reports of~~  
10 ~~unclaimed property with the State Treasurer.~~

11 (e) Verification. – Verification, if made by a partnership, shall be executed by a  
12 partner; if made by an unincorporated association or private corporation, by an officer;  
13 and if made by a public corporation, by its chief fiscal officer. Notwithstanding the  
14 above, any person authorized to bind the appropriate entity may make this verification.

15 (f) Negative Report. – If a holder receives a report form from the State Treasurer  
16 and holds no abandoned property, then a negative report must be filed."

17 Sec. 4. G.S. 116B-31 reads as rewritten:

18 **"§ 116B-31. Payment or delivery of abandoned property.**

19 (a) ~~Insurers.—Every insurer—Due Date.~~ – A holder shall remit or deliver to the  
20 Treasurer ~~on or before December 1,~~ with the report filed under G.S. 116B-29 any  
21 property ~~deemed abandoned under the provisions of this Chapter and reported as~~  
22 ~~required by G.S. 116B-29.~~ required to be included in the report. These remittances shall  
23 be made payable to the Treasurer.

24 (b) ~~Other Holders.—All other holders shall remit or deliver to the Treasurer with~~  
25 ~~the report required to be filed by G.S. 116B-29 any property deemed abandoned under~~  
26 ~~the provisions of this Chapter.~~

27 (c) Tangible Personal Property. – Prior to the delivery of any tangible personal  
28 property to the Treasurer, the holder shall report to the Treasurer the nature, condition  
29 and approximate value of each article of such property. The Treasurer may determine  
30 that delivery of specific tangible personal property is not in the best interest of the State,  
31 either because the sum or value is too small or for other good reason. The Treasurer  
32 shall notify the holder of the property of his determination and may refuse to accept  
33 delivery and custody of that property."

34 Sec. 5. G.S. 116B-34 reads as rewritten:

35 **"§ 116B-34. Periods of limitation not a bar.**

36 The expiration of any period of time specified by ~~statutes—statutes,~~ contract, or court  
37 order, during which a claim may be made or an action or a proceeding may be  
38 commenced or enforced to obtain payment of a claim for money or recovery of  
39 property, shall not prevent the money or property from being presumed abandoned  
40 property, nor affect any duty to file a report under this Chapter or to pay or deliver  
41 abandoned property to the Treasurer."

42 Sec. 6. This act becomes effective December 1, 1993.