# NORTH CAROLINA GENERAL ASSEMBLY

# LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** House Bill 311 (Second Edition)

**SHORT TITLE**: Escheat Sunset Removed

**SPONSOR(S)**: Proposed Committee Substitute

### FISCAL IMPACT

Yes ( ) No (x) No Estimate Available (X)

FY 1997-98 FY 1998-99 FY 1999-00 FY 2000-01 FY 2001-02

**REVENUES** See section on assumptions and methodology.

PRINCIPAL DEPARTMENT(S) &

**PROGRAM(S) AFFECTED**: Escheat and Unclaimed Property Program

Department of State Treasurer

**EFFECTIVE DATE**: Upon Ratification

#### **BILL SUMMARY:**

The proposed act removes the June 30, 1997 sunset which provides that forfeited reservation deposits are not subject to escheat and clarifies that some reservation deposits can be retained by a business association.

Reservation deposits are defined in the act as an amount of money paid to a business association to guarantee a specific service such as a hotel room or restaurant reservation. The act clarifies that such deposits may be retained by the business association if the person making the deposit fails to make use of the service. The forfeited reservation deposit are not considered unclaimed or abandoned property subject to escheat.

## **BACKGROUND SUMMARY:**

Prior to 1996, business associations that had a nonrefundable deposit policy and violated that policy by refunding some parties and not others having similar circumstances, were required to escheat the unclaimed money after five years. In 1996, the General Assembly passed temporary legislation that excluded forfeited reservation deposits from escheat regardless of any practice or policy of a business association. House Bill 311 removes the sunset and clarifies that such deposits can be retained by the business.

#### ASSUMPTIONS AND METHODOLOGY:

The Department of State Treasurer reports that there will be a minimal loss to the Escheat Fund and to the North Carolina Education Assistance Authority. [Interest earnings on the principal in the Escheat Fund are used to provide low interest student loans to North Carolina residents attending public universities.] The actions of the 1996 General Assembly prohibited Escheat Fund audits from identifying forfeited room deposits prior to July 1, 1996. The violation of forfeited room deposits subject to escheat is normally discovered through audit procedures. The department does not have sufficient audit records, recording forfeited room and reservation deposits, to prepare an estimate on future losses.

The only information available, as to a fiscal impact, is a record of audits conducted by the Escheat Program in 1996. At least three audits were performed that year on separate resort hotels and one of the resorts was identified as having violated its nonrefundable deposit policy. The balance in room deposits held by the resort was \$1.1 million. The Escheat Program did not collect the \$1.1 million because of the 1996 actions of the General Assembly.

If North Carolina fails to collect unclaimed or forfeited room and reservation deposits from a business association that is located in this State but incorporated in another state then the property is subject to escheat in the state of incorporation.

Texas v. New Jersey (§ 2.05[4][a][I],infra.)

FISCAL RESEARCH DIVISION

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**APPROVED BY:** 

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