

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 709

Short Title: Escheats Law Changes.

(Public)

Sponsors: Senator Cooper.

Referred to: Judiciary I.

April 6, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE TREATMENT OF LAYAWAY ARRANGEMENTS
FOR PURPOSES OF THE LAW OF ESCHEATS AND ABANDONED
PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116B-21(a) reads as rewritten:

"(a) Property. – All property, not otherwise covered in this Chapter, held in the ordinary course of the holder's ~~business, business including accounts payable and other obligations of any type,~~ shall be presumed abandoned if it has not been claimed by the owner within five years after becoming payable or distributable. Such property shall include accounts payable and other disputed and legally enforceable debts of any type, but shall not include property or amounts retained by a business association in connection with a breach of contract for the sale of goods, as 'contract' and 'goods' are defined in Chapter 25 of the General Statutes, regardless of the applicability of G.S. 25-2-718. Any holder who has property in this category with a value of one hundred dollars (\$100.00) or less in a single reporting year, shall not be required to report the property in that year, but shall report the property in any year when the value or aggregate value exceeds one hundred dollars (\$100.00)."

Sec. 2. G.S. 116B-11 reads as rewritten:

"§ 116B-11. Property subject to custody and control of the State.

(a) Personal property that is deemed unclaimed or abandoned under this Chapter is subject to the custody and control of the State if it is:

- (1) Tangible. – Tangible and physically located within the State; or
- (2) Intangible. – Intangible, and

- 1 a. The last known address of the owner, as shown by the records
2 of the holder, is within the State; or
- 3 b. The last known address of the owner as shown by the records of
4 the holder is within a jurisdiction, the laws of which do not
5 provide for the escheat or custodial taking of the property, and
6 the domicile of the holder is within the State; or
- 7 c. No address of the owner appears on the records of the holder
8 and the domicile of the holder is within the State; or
- 9 d. No address of the owner appears on the records of the holder
10 and the domicile of the holder is not within the State, but it is
11 proved that the last known address of the owner is in the State;
12 or
- 13 e. If the intangible property is a sum payable on a money order,
14 traveler's check or similar written instrument, and
 - 15 1. The instrument was purchased within the State, as shown
16 by the records of the holder;
 - 17 2. The place of purchase of the instrument is not shown in
18 the records of the holder and the holder's principal place
19 of business is within the State; or
 - 20 3. The place of purchase of the instruments, as shown by
21 the records of the holder, is within a jurisdiction, the
22 laws of which do not provide for the escheat or custodial
23 taking of the property, and the holder's principal place of
24 business is within the State.

25 (b) In the case of an unfulfilled layaway contract, the unclaimed or abandoned
26 property subject to the provisions of this Chapter shall consist of the goods, as defined
27 in G.S. 25-2-105, set aside by the seller under the terms of the contract, and such goods
28 are subject to the custody and control of the State if:

- 29 (1) The requirements of subdivision (a)(1) of this section are satisfied; and
- 30 (2) The State makes payment to the seller in an amount equal to the fair
31 market value of the goods less the difference between the amount paid
32 by the buyer to the seller pursuant to the layaway contract and the
33 amount retained by the seller as liquidated damages under G.S. 25-2-
34 718 on account of the unfulfilled layaway contract. For purposes of
35 calculating the payment from the State under this subsection, the
36 amount retained shall specifically be reduced by the amount received
37 by the buyer from the seller, whether pursuant to the seller's policy or
38 accommodation.

39 (c) For purposes of this section, the term 'layaway contract' means any
40 contract for the sale of goods in which the seller agrees with the purchaser, in
41 consideration for the purchaser's payment of a deposit, down payment, or similar initial
42 payment, to hold identified goods for future delivery upon the purchaser's payment of a
43 specified additional amount, whether in installments or otherwise. For purposes of this
44 section, a layaway contract shall be deemed an 'unfulfilled layaway contract' if the

1 purchaser defaults under the terms of the layaway contract by failing to make payments
2 under the layaway contract by the time specified in the contract within a reasonable time
3 following the date of the contract."

4 Sec. 3. This act is effective upon ratification, and applies to transactions
5 occurring prior to, on, or after that date.