

March 4, 1999

S 244. UNCLAIMED PROPERTY ACT (=H 263). TO ENACT THE NORTH CAROLINA UNCLAIMED PROPERTY ACT AND TO MAKE CONFORMING AMENDMENTS TO THE GENERAL STATUTES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

Repeals Art. 2 (Abandoned Property) and most of Art. 3 (Administration of Abandoned Property), GS Ch. 116B, and adds new Art. 4 (North Carolina Unclaimed Property Act) to GS Ch. 116B. New GS 116B-53 (presumptions of abandonment) provides that property is unclaimed if apparent owner has not communicated in writing or by other means reflected in contemporaneous record prepared by or on behalf of holder, with holder concerning property or account in which property is held, and has not otherwise indicated an interest in the property. Communication with owner by person (other than holder or its representative) who has not, in writing, identified property to owner is not an indication of interest in property by owner. Sets out factors concerning indication of interest in property. Sets out presumption of abandonment for particular types of property. Bill contains following statutory provisions: GS 116B-52 (definitions of terms); 116B-54 (exclusion for forfeited reservation deposits); 116B-55 (contents of safe deposit box or other safekeeping depository); 116B-56 (rules for taking custody); 116B-57 (dormancy charge); 116B-58 (burden of proof as to property evidenced by record of check or draft); 116B-59 (notice by holders to apparent owners); 116B-60 (report of abandoned property; certification by holders with tax return); 116B-61 (payment or delivery of abandoned property); 116B-62 (preparation of list of owners by State Treasurer); 116B-63 (custody by state; recovery by holder; defense of holder); 116B-64 (income or gain accruing after payment or deliver); 116B-65 (public sale of abandoned property); 116B-66 (claim of another state to recover property); 116B-67 (claim for property paid or delivered to Treasurer); 116B-68 (action to establish claim); 116B-69 (election to take payment or delivery); 116B-70 (destruction or disposition of property having no substantial commercial value; immunity from liability; property of historical significance); 116B-71 (periods of limitation); 116B-72 (requests for reports and examination of records); 116B-73 (retention of records); and 116B-77 (agreement to locate property). New GS 116B-74 provides that State Treasurer may maintain action in NC or another state to enforce GS Ch. 116B. New GS 116B-75 allows Treasurer to enter into agreement with another state to exchange information concerning abandoned property or its possible existence and join with another state to seek enforcement of GS Ch. 116B. New GS 116B-76 provides that holder who fails to report, pay, or deliver property within time prescribed by GS Ch. 116B shall pay to Treasurer interest at rate established under subsection on property or value of property from date property should have been reported, paid, or delivered; also sets out civil penalties for holder. New GS 116B-78 (transitional provisions) provides that initial report filed under article that was not required to be reported before effective date of article (Jan. 1, 2000) but which is subject to article must include all items of property that would have been presumed abandoned during ten-year period next preceding effective date of article as if this article had been in effect during that period. Provides that article does not relieve holder of duty that arose before effective date of article to report, pay, or deliver property. Except as otherwise provided in GS 116B-71(b) and 116B-76(d), holder who did not comply with law in effect before effective date of article is subject to applicable provisions for enforcement and penalties which then existed, which are continued in effect for purpose of this section. New GS 116B-79 allows Treasurer to adopt rules necessary to carry out GS Ch. 116B. Effective Jan. 1, 2000.

Intro. by Hartsell.

Ref. to Judiciary I

GS 116B, 29, 53, 53B, 116, 44A

May 26, 1999

S 244. UNCLAIMED PROPERTY ACT. Intro. 3/4/99. Senate committee substitute makes the following changes to 1st edition. Amends GS 116B-8 to provide that independent contractors secured by the Treasurer to determine the sources and amounts of unreported property are subject to the same policies regarding ethics and confidentiality as employees performing the same functions. Limits compensation of independent contractors to 10 percent of the final assessment. Provides for exclusions for certain gift certificates or electronic gift cards, prepaid calling cards, certain manufactured home buyer deposits and certain credit card balances pursuant to GS 116B-54. Requires a fee of \$10 for a request for an extension to file a report of abandoned property under GS 116-60. Deletes provision under GS 116B-72(e) for penalties for

willfully failing to report property. Adds new GS 116B-73.1, which allows a holder to request that the Treasurer conduct a precompliance review of the holder's program. Amends GS 116B-77 to provide that any person who enters into an agreement to locate property with an owner shall register annually with the Treasurer. Makes other technical changes.

June 9, 1999

S 244. UNCLAIMED PROPERTY ACT. Intro. 3/4/99. Senate committee substitute makes the following changes to 2nd edition. Adds GS 116B-57(b) to provide that in addition to a dormancy charge, a holder may deduct from property presumed abandoned other lawful charges authorized either by statute or contract.

June 15, 1999

S 244. UNCLAIMED PROPERTY ACT. Intro. 3/4/99. House amendment makes the following changes to 3rd edition. Deletes from property that is subject to the custody of NC, property if the transaction out of which the property arose occurred in NC, the holder is domiciled in a state that does not have an escheat law, and the last known address of the owner is unknown or is in a state that does not have an escheat law. Deletes provision specifying that a contract to locate abandoned property is unconscionable if it provides for compensation in an amount greater than 25% of the value of the property recovered.

June 16, 1999

S 244. UNCLAIMED PROPERTY ACT. Intro. 3/4/99. Senate amendments make the following changes to 4th edition. Changes proposed GS 116B-71(b) to reduce amount of time that the Treasurer has to bring an action from ten years to three years after holder has filed a report with the Treasurer. Extends the period of limitation to six years after the holder filed a report if the holder failed to identify more than 25% of the value of the property or to give express notice to the Treasurer of a dispute regarding more than 25% of the value of the property. Amends GS 116B-53(c)(13) to provide that wages or other compensation for personal services are presumed abandoned if they are unclaimed two years after becoming payable.

July 8, 1999

S 244. UNCLAIMED PROPERTY ACT. Intro. 3/4/99. House committee substitute makes the following changes to 5th edition: (1) amends proposed GS 116B-8 to allow State Treasurer to compensate persons whose services are used on a contingent fee basis up to 12% of the final assessment (was, 10%); (2) amends proposed GS 116B-53(e) to provide that property is payable or distributable notwithstanding the failure to make demand or present an instrument or document to obtain payment, *except as otherwise provided by the Uniform Commercial Code* (new language in italics); (3) amends proposed GS 116B-58 to provide that in asserting the affirmative defenses of payment, satisfaction, discharge, and want of consideration, a holder who is also the issuer may satisfy the holder's burden of proof by showing a written acknowledgement by the payee of a check, draft, or similar instrument that no obligation is owed by the payee; (4) amends proposed GS 116B-71 (periods of limitation) to provide that an action by the Treasurer to enforce may not be maintained more than five years after the holder files a report (was, three years) and deletes provision extending period to six years after the holder files a report if the holder failed to identify more than 25% of the value or to give express notice of a dispute involving more than 25% of the property's value; and (5) corrects several statutory citations.