

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 1021  
Judiciary I Committee Substitute Adopted 5/12/09  
House Committee Substitute Favorable 5/27/09  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1021-PCS85249-RR-57

Short Title: Property Finders.

(Public)

Sponsors:

Referred to:

March 26, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROTECT OWNERS OF ABANDONED PROPERTY BY REGULATING  
3 PROPERTY FINDERS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 116B-62 reads as rewritten:

6 "§ 116B-62. Preparation of list of owners by Treasurer.

7 (a) There shall be delivered annually in an electronic format to the Administrative  
8 Office of the Courts to be distributed to the clerk of superior court of each county ~~prior to June~~  
9 ~~30 of each year~~ a list prepared by the Treasurer of escheated and abandoned property reported  
10 to the Treasurer. The list shall ~~contain~~ contain all of the following:

- 11 (1) The names, if known, in alphabetical order of surname, and last known  
12 addresses, if any, of apparent owners of escheated and abandoned  
13 ~~property;~~ property as of June 30 of that year.  
14 (2) The names and addresses of the holders of the abandoned ~~property;~~  
15 ~~and property.~~  
16 (3) A statement that claim and proof of legal entitlement to escheated or  
17 abandoned property shall be presented by the owner to the Treasurer, which  
18 statement shall set forth where further information may be obtained.

19 The Treasurer shall send the list to the Administrative Office of the Courts as soon as  
20 possible after June 30 of each year but no later than July 31, and the Administrative Office of  
21 the Courts shall distribute the list to each clerk of superior court as soon as possible after  
22 receiving it but no later than August 31.

23 (b) At the time the lists are distributed to the clerks of superior court, but no later than  
24 August 31 of each year, the Treasurer shall cause to be published once each week for two  
25 consecutive weeks, in at least two newspapers having general circulation in this State, a notice  
26 stating the nature of the lists and that the lists are available for inspection at the offices of the  
27 respective clerks of superior court, together with any other information the Treasurer deems  
28 appropriate to appear in the notice.

29 (c) The Treasurer is not required to include in any list any item of a value, as  
30 determined by the Treasurer, in the Treasurer's discretion, of less than fifty dollars (\$50.00),  
31 unless the Treasurer deems inclusion of items of lesser amounts to be in the public interest.



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1 (d) The clerks of superior court shall ~~retain the lists on permanent file in their offices~~  
2 ~~and shall make them~~ make the lists available for public inspection.

3 (e) The lists prepared by the Treasurer shall include only escheated and abandoned  
4 property reported for the current reporting date and are not required to be cumulative lists of  
5 escheated and abandoned property previously reported.

6 (f) Notwithstanding the provisions of Chapter 132 of the General Statutes, the  
7 supporting data and lists of apparent owners of ~~escheated and abandoned unclaimed~~ property  
8 held by a clerk of superior court or any other office of State or local government may be  
9 confidential ~~until six months after the notice to clerks of superior court required by subsection~~  
10 ~~(b) of this section has been distributed.~~ but shall be disclosed to the Treasurer in accordance  
11 with the reporting of escheated and abandoned property. The supporting data and lists of  
12 apparent owners of escheated and abandoned property held by the Treasurer may be  
13 confidential until six months after the list to the clerks of superior court required by subsection  
14 (b) of this section has been distributed. This subsection shall not apply to owners of reported  
15 property making inquiries about their property to the Escheat Fund."

16 **SECTION 2.** G.S. 116B-78 reads as rewritten:

17 "**§ 116B-78. Agreement to locate property.**

18 (a) ~~An agreement by an owner, the primary purpose of which is to locate, deliver,~~  
19 ~~recover, or assist in the recovery of property that is presumed abandoned, is void and~~  
20 ~~unenforceable if it was entered into during the period commencing on the date the property was~~  
21 ~~presumed abandoned and extending to a time that is 24 months after the date the property is~~  
22 ~~paid or delivered to the Treasurer. This subsection does not apply to an owner's agreement with~~  
23 ~~an attorney to file a claim as to identified property or contest the Treasurer's denial of a claim.~~

24 (a1) Agreements Covered. – An agreement by an owner is covered by this section if its  
25 primary purpose is to locate, deliver, recover, or assist in the recovery of property that is  
26 distributable to the owner or presumed abandoned.

27 (a2) Void Agreements. – An agreement covered by this section is void and  
28 unenforceable if it was entered into during the period commencing on the date the property was  
29 distributable to the owner and extending to a time that is 24 months after the date the property  
30 is paid or delivered to the Treasurer. This subsection does not apply to an owner's agreement  
31 with an attorney to file a claim or special proceeding as to identified property or contest the  
32 Treasurer's denial of a claim or a clerk's denial of a petition.

33 (b) Criteria for Agreements. – ~~An agreement by an owner, the primary purpose of~~  
34 ~~which is to locate, deliver, recover, or assist in the recovery of property, covered by this section~~  
35 ~~is enforceable only if the agreement~~ if it meets all of the following criteria:

36 (1) ~~is~~ Is in writing, writing and clearly sets forth the nature of the property and  
37 the services to be rendered, rendered.

38 (2) is Is signed by the owner, owner, with signature notarized.

39 (3) Describes the property, which includes the type of property, the property ID  
40 held by the State Treasurer, and the name of the holder.

41 (4) States that there may be other claims to the property that may reduce the  
42 share of the owner.

43 (5) ~~and states~~ States the value of the property property, to the extent known,  
44 before and after the fee or other compensation has been deducted.

45 (6) States clearly the fees and costs for services. Total fees and costs shall be  
46 limited as follows:

47 a. For an agreement covered by this section other than one covered by  
48 G.S. 28A-22-11, total fees and costs shall not exceed one thousand  
49 dollars (\$1,000) or twenty percent (20%) of the value of the property  
50 recovered, whichever is less.

1                   b.     For an agreement subject to G.S. 28A-22-11 by an heir, unknown or  
2                   known but unlocated, the primary purpose of which is to locate or  
3                   recover, or assist in the recovery, of a share in a decedent's estate, or  
4                   surplus funds in a special proceeding, total fees and costs shall not  
5                   exceed twenty percent (20%) of the value of the property recovered.

6                   (7)    Discloses that the property is being held by the North Carolina Department  
7                   of State Treasurer's Unclaimed Property Program.

8                   (c)    Mineral Proceeds. – If an agreement covered by this section applies to mineral  
9                   proceeds and the agreement contains a provision to pay compensation that includes a portion of  
10                  the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is  
11                  void and unenforceable.

12                  (d)    Means of Payment. – Any person who enters into an ~~an~~ agreement covered by this  
13                  section ~~that provides for compensation that is unconscionable is unenforceable except by the~~  
14                  ~~owner.~~ with an owner shall be allowed to receive cash property, but not tangible property or  
15                  securities, on behalf of the owner but shall not be authorized to negotiate the check made  
16                  payable to the owner. An owner who has made an agreement to pay compensation that is  
17                  ~~unenforceable, or the Treasurer on behalf of the owner, may maintain an action to reduce the~~  
18                  ~~compensation to a conscionable amount. The court may award reasonable attorneys' fees to an~~  
19                  ~~owner who prevails in the action. Tangible property shall be delivered to the owner by the~~  
20                  Treasurer, and securities will be reregistered into the owner's name.

21                  (e)    Other Remedies. – This section does not preclude an owner from asserting that an  
22                  agreement covered by this section is invalid on grounds other than as provided in subsection ~~(d)~~  
23                  (b) of this section.

24                  (f)    Registration. – Any person who enters into an agreement covered by this section  
25                  with an owner shall register ~~annually~~ each calendar year with the Treasurer. The information to  
26                  be required under this subsection shall include the person's name, address, telephone number,  
27                  state of incorporation or residence, as applicable, and the person's social security or federal  
28                  identification number. A registration fee of one hundred dollars (\$100.00) shall be paid to the  
29                  Treasurer at the time of the filing of the registration information. Fees received under this  
30                  subsection shall be credited to the General Fund.

31                  (g)    Unfair Trade Practice. – In addition to rendering an agreement void and  
32                  unenforceable, a failure to comply with the provisions of this section constitutes an unfair or  
33                  deceptive trade practice under G.S. 75-1.1."

34                  **SECTION 3.** Article 22 of Chapter 28A of the General Statutes is amended by  
35                  adding a new section to read:

36                  "**§ 28A-22-11. Agreements with heirs.**

37                  Any agreement by an heir, unknown or known but unlocated, the primary purpose of which  
38                  is to locate or recover, or assist in the recovery of, a share in a decedent's estate shall be subject  
39                  to the provisions of G.S. 116B-78."

40                  **SECTION 4.** This act becomes effective October 1, 2009, and applies to  
41                  agreements entered into on or after that date.