

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 294
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40148-MR-44 (02/15)

Short Title: Unclaimed Property Notice Requirements.-AB (Public)

Sponsors: Representative Hurley.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE NOTICE REQUIREMENTS AND PENALTY FOR THE DISPOSITION OF ABANDONED PROPERTY AND TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE UNCLAIMED PROPERTY STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Section 2 of S.L. 2015-68 is repealed.

SECTION 1.(b) This section is retroactively effective October 1, 2015.

SECTION 2. G.S. 116B-70, as amended by Section 1(a) of this act, reads as rewritten:

"§ 116B-70. **Destruction or disposition of property having no substantial ~~or~~ commercial value; immunity from ~~liability~~ liability; property of historical significance.**

(a) If the Treasurer determines after investigation that ~~property~~ property, including stock or other equity interest in a business association, including a security entitlement under Article 8 of Chapter 25 of the General Statutes, delivered under this Chapter has no substantial commercial value, the Treasurer may destroy or otherwise dispose of the property at any time. An action or proceeding may not be maintained against the State or any officer, employee, or agent of the State, both past and present, in the person's individual and official capacity, or against the holder for or on account of an act of the Treasurer under this subsection, except for intentional misconduct.

(b) Notwithstanding the provisions of G.S. 116B-65, the Treasurer may retain any tangible property delivered to the Treasurer, if the property has recognized historic significance. The historic significance shall be certified by the Treasurer, with the advice of the Secretary of Natural and Cultural Resources; and a statement of the appraised value of the property shall be filed with the certification. Historic property retained under this subsection may be stored and displayed at any suitable location."

SECTION 3.(a) G.S. 116B-59 reads as rewritten:

"§ 116B-59. **Notice by holders to apparent owners.**

(a) ~~A holder of property presumed abandoned shall make a good faith effort to locate an apparent owner.~~

(a1) A holder of property that is presumed abandoned and that is either (i) stock, or other equity interest in a business association, including a security entitlement under Article 8 of Chapter 25 of the General Statutes, that is valued at twenty-five dollars (\$25.00) or more or (ii) property, other than stock or other equity interest in a business association, including a security entitlement under Article 8 of Chapter 25 of the General Statutes, that is valued at fifty dollars (\$50.00) or more shall provide written notice to the apparent owner through the following means:

(1) The holder shall send written notice by first-class mail to the apparent owner not more than 120 days or less than 60 days before filing the report required by



1 G.S. 116B-60. If the holder has reason to believe the mailing address is not
2 correct or the holder does not have a mailing address, not more than 120 days
3 or less than 60 days before filing the report required by G.S. 116B-60, the
4 holder shall conduct at least one search on an information database service, or
5 such other alternative as the Treasurer may authorize. If the search appears to
6 reveal a new mailing address for the apparent owner, the written notice shall be
7 sent to that address.

8 (2) If the apparent owner has consented to receive electronic mail from the holder
9 and the holder has a valid electronic mail address, the holder shall, in addition
10 to the written notice sent by first-class mail, send written notice electronically
11 to the apparent owner's electronic mail address.

12 ~~(b) The holder shall send written notice, by first-class mail, to the apparent owner, not~~
13 ~~more than 120 days or less than 60 days before filing the report required by G.S. 116B-60, to the~~
14 ~~last known address of the apparent owner as reflected in the holder's records, if the value of the~~
15 ~~property is fifty dollars (\$50.00) or more.~~

16 (c) The written notice to apparent owners required under this section must contain:
17 all of the following:

18 (1) A statement that, according to the records of the holder, property is being held
19 to which the addressee appears entitled and the amount or entitled, a description
20 of the property; property, and the amount or value of the property if known.

21 (2) The name and address name, address, and contact information of the person
22 holding the property and any necessary information regarding changes of name
23 and address of the holder; holder.

24 (3) A statement that, if satisfactory proof of claim is not presented by the owner to
25 the holder by the following October 1 or, if the holder is an insurance company,
26 by the following April 1, the property will be placed in the custody of the
27 Treasurer, to whom all further claims shall be directed.

28 (4) A statement that, once property is placed in the custody of the Treasurer, all
29 interest, dividends, income, and gains earned on the property will remain with
30 the Treasurer, even if the owner subsequently reclaims the property from the
31 Treasurer."

32 **SECTION 3.(b)** G.S. 116B-77 reads as rewritten:

33 **"§ 116B-77. Interest and penalties; waiver.**

34 (a) A holder who fails to report, pay, or deliver property within the time prescribed by this
35 Chapter shall pay to the Treasurer interest at the rate established pursuant to this subsection on the
36 property or value of the property from the date the property should have been reported, paid, or
37 delivered. On or before June 1 and December 1 of each year, the Treasurer shall establish the
38 interest rate to be in effect during the six-month period beginning on the next succeeding July 1
39 and January 1, respectively, after giving due consideration to current market conditions. If no new
40 rate is established, the rate in effect during the preceding six-month period shall continue in effect.
41 The rate established by the Treasurer may not be less than five percent (5%) per year and may not
42 exceed sixteen percent (16%) per year.

43 (b) A holder who willfully fails to report, pay, or deliver property within the time
44 prescribed by this Chapter, or willfully fails to perform other duties imposed by this Chapter, shall
45 pay to the Treasurer, in addition to interest as provided in subsection (a) of this section, a civil
46 penalty of one thousand dollars (\$1,000) for each day the report, payment, or delivery is withheld,
47 or the duty is not performed, up to a maximum of twenty-five thousand dollars (\$25,000), plus
48 twenty-five percent (25%) of the value of any property that should have been but was not reported.

49 (c) A holder who makes a fraudulent report shall pay to the Treasurer, in addition to
50 interest as provided in subsection (a) of this section, a civil penalty of one thousand dollars
51 (\$1,000) for each day from the date a report under this Chapter was due, up to a maximum of

1 twenty-five thousand dollars (\$25,000), plus twenty-five percent (25%) of the value of any
2 property that should have been but was not reported.

3 (c1) If a holder fails to perform its duties under G.S. 116B-59, the Treasurer may access a
4 civil penalty of one thousand dollars (\$1,000) for each day a requirement is not performed, up to a
5 maximum penalty of twenty-five thousand dollars (\$25,000).

6 (d) The Treasurer for good cause may waive, in whole or in part, interest under subsection
7 (a) of this section and penalties under subsection (b) and subsection (c1) of this section."

8 **SECTION 3.(c)** This section becomes effective October 1, 2017, and applies to
9 property presumed abandoned on or after that date.

10 **SECTION 4.** G.S. 116B-52(11) reads as rewritten:

11 "(11) "Property" means (i) money or tangible personal property held by a holder that
12 is physically located in a safe deposit box or other safekeeping depository held
13 by a financial institution within this State or (ii) a fixed and certain interest in
14 intangible property or money that is held, issued, or owed in the course of a
15 holder's business, or by a government, governmental subdivision, agency, or
16 instrumentality, and all income or increments therefrom. The term includes
17 property that is referred to as or evidenced by:

- 18 a. Money, a check, draft, deposit, interest, or dividend;
- 19 b. Credit balance, customer's overpayment, gift certificate, security
20 deposit, refund, credit memorandum, unpaid wage, unused ticket,
21 mineral proceeds, or unidentified remittance;
- 22 c. Stock or other evidence of ownership of an interest in a business
23 association;
- 24 d. A bond, debenture, note, or other evidence of indebtedness;
- 25 e. Money deposited to redeem stocks, bonds, coupons, or other securities,
26 or to make distributions;
- 27 f. An amount due and payable under the terms of an annuity or insurance
28 policy, including policies providing life insurance, property and casualty
29 insurance, workers' compensation insurance, or health and disability
30 insurance; and
- 31 g. An amount distributable from a trust or custodial fund established under
32 a plan to provide health, welfare, pension, vacation, severance,
33 retirement, death, stock purchase, profit sharing, employee savings,
34 supplemental unemployment insurance, or similar benefits."

35 **SECTION 5.** Unless otherwise provided, this act is effective when it becomes law.