

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 181
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Short Title: Unclaimed Property Division Changes.-AB (Public)

Sponsors: Representatives Hardister, Rudow, and Carson Smith (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Pensions and Retirement, if favorable, State Government, if favorable, Rules,
Calendar, and Operations of the House

February 27, 2023

A BILL TO BE ENTITLED

AN ACT MAKING VARIOUS CHANGES TO THE UNCLAIMED PROPERTY DIVISION
STATUTES AND WAIVING FEES FOR ESTATE ADMINISTRATION LIMITED TO
CERTAIN PROPERTIES HELD IN THE ESCHEAT FUND, AS RECOMMENDED BY
THE DEPARTMENT OF STATE TREASURER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116B-52(11) reads as rewritten:

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

SECTION 2. G.S. 116B-59(a1) reads as rewritten:

"(a1) A holder of property that is presumed abandoned and that is either (i) a security 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 a security 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 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 G.S. 116B-60. The holder shall exercise reasonable care to ascertain that it is sending the written notice to the apparent owner's correct address. A holder may authorize a third party to perform the duties required by this subsection. Notwithstanding any third-party authorization, the holder bears responsibility for a failure to comply with this section."

SECTION 3. G.S. 116B-60(a) reads as rewritten:

"(a) A holder of property presumed abandoned shall file a report in an electronic format prescribed by the Treasurer concerning the property. Holders shall file an electronic certification and verification in order to comply with subsection (f) of this section. A holder may authorize a third party to perform the duties required by this subsection. Notwithstanding any third-party authorization, the holder bears responsibility for a failure to comply with this section."

SECTION 4. G.S. 116B-62 reads as rewritten:



1 "§ 116B-62. Preparation of list of owners by Treasurer.

2 ...
3 (c) ~~The Treasurer is not required to include in any list any item of a value, as determined~~
4 ~~by the Treasurer, in the Treasurer's discretion, of less than fifty dollars (\$50.00), unless the~~
5 ~~Treasurer deems inclusion of items of lesser amounts to be in the public interest.~~

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

18 **SECTION 5.** G.S. 116B-65(a) reads as rewritten:

19 "(a) Except as otherwise provided in this section, the Treasurer, within five years after the
20 receipt of abandoned property, shall sell it to the highest bidder at public sale at a location in the
21 State which in the judgment of the Treasurer affords the most favorable market for the property.
22 The Treasurer may decline the highest bid and reoffer the property for sale if the Treasurer
23 considers the bid to be insufficient. The Treasurer need not offer the property for sale if the
24 Treasurer considers that the probable cost of sale will exceed the proceeds of the sale. The
25 Treasurer shall give reasonable notice of the sale as he or she deems appropriate and
26 cost-effective, but, at a minimum, notice ~~must shall~~ be published ~~at least two times a year in a~~
27 ~~major newspaper in the State's major media markets, on the Treasurer's website.~~ The Treasurer
28 is not required to sell ~~money currency~~ unless it is a collector's species having value greater than
29 the face value of the ~~money currency~~ as cash."

30 **SECTION 6.** G.S. 116B-78(d) reads as rewritten:

31 "(d) Means of Payment. – Any person who enters into an agreement covered by this
32 section with an owner shall be allowed to receive cash property, but not tangible property or
33 securities, on behalf of the owner but shall not be authorized to negotiate or deposit the check
34 made payable to the owner. Tangible property shall be delivered to the owner by the Treasurer,
35 and securities will be reregistered into the owner's name."

36 **SECTION 7.** G.S. 7A-307(b) reads as rewritten:

37 "(b) In collections of personal property by affidavit, the ~~facilities fee and thirty dollars~~
38 ~~(\$30.00) of the fee under subdivision (1), the fee under subdivision (1a), and the one hundred~~
39 ~~and six dollar (\$106.00) General Court of Justice fee under subdivision (2) of subsection (a) of~~
40 ~~this section shall be paid at the time of filing the qualifying affidavit pursuant to G.S. 28A-25-1.~~
41 ~~The remainder of the fee under subdivision (2) of subsection (a) of this section shall be paid at~~
42 ~~the time of filing the closing affidavit. If the sole asset of the estate is a cause of action, these~~
43 ~~fees shall be paid at the time of the qualification of the fiduciary.~~ Upon written request of the
44 affiant, all fees under this section shall be waived if (i) the amount to be collected is five thousand
45 dollars (\$5,000) or less and (ii) the sole source of the assets of the estate is held in the Escheat
46 Fund pursuant to Article 1A of Chapter 116B of the General Statutes. Any fees paid by an affiant
47 prior to the submission of a written request for a waiver of fees shall not be refunded by the court.
48 If, after receiving a waiver of fees under this subsection, an affiant collects additional assets that
49 disqualify the affiant from receiving the waiver under this subsection, the court costs otherwise
50 applicable to the collection of personal property by affidavit shall apply."

1 **SECTION 8.** Section 7 of this act becomes effective January 1, 2024, and applies to
2 affidavits filed on or after that date. The remainder of this act is effective when it becomes law.