

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 709 - Judiciary II Committee Substitute
Adopted 5/5/93

SHORT TITLE: Layaway Contracts

SPONSOR(S):

FISCAL IMPACT: Expenditures: Increase () Decrease ()
Revenues: Increase () Decrease (x)
No Impact ()
No Estimate Available (x)

FUNDS AFFECTED: General Fund () Highway Fund () Local Fund ()
Escheats Fund (x)

BILL SUMMARY: Amends G.S. 25-2-106 by defining "layaway contract"; Amends G.S. 25-2-718(2) by providing that where a buyer breaks a layaway contract, the seller may elect to retain up to \$50.00 of the aggregate payments made by the buyer to the seller under the contract.

Unless the contract specifies otherwise, under current law a consumer buying goods under a contract for sale who breaks that contract before the goods are delivered is entitled to a refund of accumulated payments in excess of an amount equal to 20% of the purchase price. Should the consumer fail to collect that refund within five years, the amount to be refunded escheats to the State and must be used to support "worthy and needy" students under provisions of the North Carolina Constitution (Article IX, Section 10).

This legislation defines a layaway contract as a special case and allows the seller, at his/her election, to retain up to \$50.00 of accumulated layaway payments should the buyer breach the contract. The effect is to reduce refunds to layaway purchasers as a class, and thus to reduce the amounts escheating to the State from the subset of that class that abandons its claims to refunds.

EFFECTIVE DATE: Effective upon ratification.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: State Education Assistance Authority; State Treasurer

FISCAL IMPACT

	<u>FY</u>	<u>FY</u>	<u>FY</u>	<u>FY</u>	<u>FY</u>
EXPENDITURES					
RECURRING					
NON-RECURRING					
REVENUES/RECEIPTS					

**RECURRING
NON-RECURRING**

POSITIONS:

ASSUMPTIONS AND METHODOLOGY:

SOURCES OF DATA: State Treasurer

COMMENTS AND TECHNICAL CONSIDERATIONS: An audit performed by the State Treasurer's Office found that, during the 1987-88 Fiscal year, Roses Stores, Inc. accumulated **\$257,000** in unpaid refunds that would be escheatable under G.S. 116B. Roses Stores, Inc. contested the Treasurer's findings in a lawsuit (Roses Stores, INC. v. Harlan E. Boyles), and appealed to the North Carolina Supreme Court (opinion forthcoming) after the Treasurer's position was upheld by the Court of Appeals. If this legislation is approved, according to the Escheats Administrator, the preponderance of abandoned refunds would no longer be escheatable irrespective of the outcome of the lawsuit.

The information underlying the Roses case suggests an order of magnitude impact, but does not furnish sufficient data for a reliable estimate of revenue losses because:

1. The audit data is five years old.
2. No information relative to businesses other than Roses Stores, Inc. is available.

FISCAL RESEARCH DIVISION

733-4910

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DATE: June 24, 1993

[FRD#003]



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